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Sup Ct.

EXCERPTS FROM TRANSCRIPT OF EVIDENCE

Supreme Court of the United States

OCTOBER TERM, 1939

No. 9, Original

THE STATE OF ARKANSAS, COMPLAINANT,

vs.

THE STATE OF TENNESSEE

IN EQUITY

FILED OCTOBER 20, 1939.

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THE STATE OF ARKANSAS, COMPLAINANT,

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INDEX.

| | Original | Print |
|---|----------|-------|
| Report of evidence taken on behalf of defendant, State of Tennessee | 1 | 1 |
| Caption and appearances | 1 | 1 |
| Testimony of S. C. Michell..... | 2 | 1 |
| Stipulation as to lands affected..... | 6 | 4 |
| Testimony of E. M. Huffman..... | 10 | 7 |
| G. L. Scott | 18 | 12 |
| C. C. Johnson | 24 | 15 |
| L. O. Brayton | 26 | 16 |
| C. C. Johnson (recalled)..... | 52 | 32 |
| L. O. Brayton (recalled)..... | 60 | 37 |
| Byron Morse | 64 | 40 |
| Dr. L. C. Glenn | 67 | 42 |
| Franklin W. Latta | 259 | 46 |
| Stipulation re reliance upon all applicable statutes of litigating states | 282 | 59 |
| Report of evidence taken on behalf of plaintiff, State of Arkansas | 285 | 60 |
| Caption and appearances | 285 | 60 |
| Testimony of O. W. Gauss | 334 | 60 |
| O. W. Gauss (rebuttal) | 389 | 64 |
| Offer in evidence—Certificate of Otis Page, May 31, 1938. | 496 | 74 |
| Arkansas Exhibits: | | |
| No. 7—Map of Arkansas-Tennessee Hales Point Quadrangle | 498 | 76 |
| Rebuttal No. 2—Sketch of the lines of land grants as Mr. Gauss thought they should be placed as contrasted to their location by Mr. Bradon..... | 499 | 76 |

Tennessee Exhibits:

| | Original | Print |
|--|----------|-------|
| No. 1—Certificate of S. W. Purdum re post office of Chic, Tennessee | 500 | 76 |
| No. 2—Entry No. 734, McLemore & Terrell..... | 501 | 77 |
| No. 3—Entry No. 31, James Manny..... | 504 | 79 |
| No. 4—Entry No. —, Wm. B. Jones..... | 507 | 81 |
| No. 5—Entry No. —, Wm. B. Jones..... | 510 | 82 |
| No. 6—Entry No. 126, C. C. Moss..... | 513 | 84 |
| No. 7—Grant No. 4358 to James Singleton..... | 516 | 85 |
| No. 8—Grant No. 5694 to Phillips and Doyle..... | 518 | 87 |
| No. 9—Grant No. 15368 to Isaac Sampson..... | 520 | 88 |
| No. 10—Grant No. 5663 to G. A. Connally and T. D. Connally | 522 | 89 |
| No. 11—Grant No. 16093 to Charles C. Moss..... | 523 | 90 |
| No. 12—Grant No. 4502 to John Williams..... | 525 | 91 |
| No. 13—Grant No. 4503 to John Williams..... | 526 | 92 |
| No. 14—Map | 527 | 94 |
| No. 25—Map of Arkansas-Tennessee Hales Point Quadrangle | 528 | 94 |
| No. 40—Assessment rolls of Dyer County..... | 529 | 95 |
| No. 41—List of tax payments—Dyer County..... | 540 | 102 |
| No. 42—Tax deed, Phillips to Michell, July 22, 1848..... | 549 | 108 |
| No. 43—Tax deed, Benton to Henry, July 22, 1874..... | 557 | 114 |
| No. 44—Tabulation of assessments on certain lands in Dyer County | 563 | 117 |
| No. 45—Resume of assessments and tax payments in Dyer County | 582 | 131 |
| No. 46—Minute entry of County Court showing commissioning and qualification of M. N. Taylor as justice of the peace | 601 | 147 |
| No. 47—Stipulation in case of Gibbs vs. Moss in Chancery Court of Dyer County | 602 | 148 |
| No. 47-a—Depositions of Joseph Michell and Isaac Brackin in case of Moss vs. Thompson in Circuit Court of Dyer County..... | 603 | 149 |
| No. 48—Deposition of Isaac Sampson in case of Moss vs. Gibbs in Circuit Court of Dyer County..... | 608 | 152 |
| No. 49—Bill of exceptions in case of Moss vs. Thompson et al. | 613 | 158 |
| No. 50—Opinion of Supreme Court in case of Moss vs. Gibbs | 619 | 162 |
| No. 51—Opinion in case of Laxon vs. State..... | 632 | 171 |
| No. 52—Letter to Commissioner of General Land Office, January 19, 1848..... | 641 | 177 |
| No. 53—Letter to Surveyor General at Little Rock, Arkansas, March 2, 1848..... | 644 | 180 |
| No. 1—(Brayton)—Sketch | 646 | 182 |
| No. 2—(Brayton)—Isaac Sampson survey..... | 648 | 183 |
| No. 3—(Brayton)—Sketch | 649 | 184 |
| Offer in evidence—Certificate of Otis Page, June 13, 1938. Designation by plaintiff of parts of record to be printed..... | 649-a | 185 |
| Designation by defendant of parts of record to be printed..... | 650 | 185 |
| Stipulation as to record..... | 655 | 188 |
| | 660 | 190 |

[fol. 1]

**IN SUPREME COURT OF THE UNITED STATES,
OCTOBER TERM, 1939**

No. 9, Original

STATE OF ARKANSAS,

vs.

STATE OF TENNESSEE

Report of Evidence.

Before the Hon. Monte M. Lemonn, Special Master

Testimony taken on behalf of defendant, State of Tennessee, on Sept. 14, and 15, 1938, in room 339 Federal Building, Memphis, Tenn.

APPEARANCES:

For the State of Arkansas: Mr. D. Fred Taylor, Jr., and Mr. D. Fred Taylor, Sr.;

For the State of Tennessee: Asst. Attorney General, Mr. Nat. Tipton, and Mr. C. M. Buck.

[fol. 2] MR. S. C. MICHELL, the first witness, being first duly sworn, testified as follows:

Direct examination.

By Gen. Tipton:

Q. Talk out loud, so that Mr. Boulware, the reporter can hear what you say.

A. All right.

Q. Your name is S. C. Michell?

A. Yes, sir.

Q. Where do you live, Mr. Michell?

A. I live in North Little Rock; 222 Pine.

Q. How old are you?

A. I will be sixty-eight the tenth of next month—born in 1860.

Q. Born in 1860? You said you would be sixty-eight?

A. Seventy-eight, I mean. I dropped off ten years.

Q. Where were you born, Mr. Michell?

A. Lauderdale County, at what was then known as Nebraska Landing; at Wood Yard part of the time, and the Landing. My father ran that place.

Q. How far was that from what was commonly known as Moss Island, or Chic?

A. Well it was called four miles to Hale's Point, and a mile to the mouth of the Obion River—where the Obion River was then—it would be about seven miles, I guess.

Q. Did you have any relatives living at the town of Chic, [fol. 3] in Dyer County?

A. Yes, sir.

Q. Who?

A. L. M. Michell, my uncle.

Q. Did he have any other first name—was he commonly known by any other first name?

A. Morro Michell.

Q. At any time did you go to live in your uncle's home on Moss Island?

A. Well, where my uncle lived, when I was a boy it was called Moss' farm. Of course, according to the way that country goes through there, it would be the north part of the Island Chic lies on. I had my first schooling there, and lived with my uncle, when I was either ten or eleven years old. I don't remember whether it was in '70 or '71.

Q. Do you mean 1870 or 1871?

A. Yes sir; 1870 or 1871.

Q. How long did you live down there, Mr. Michell, approximately?

A. Well, I practicaly grew up there, in those two counties, and lived there until somewhere near 1900, before I pitched off into Arkansas.

Q. What was the pourpose in going to live with your uncle on Moss Island?

A. Going to school—attending school there.

Q. Where was the school located?

[fol. 4] A. On what they call Old Bluegrass, about a mile North of his home there.

Q. Where did he live with reference to where the old store was at the town of Chic?

A. Well, he lived right there. The store was right in front of his dwelling.

Q. Were there any children living on Moss Island, when you first went up there?

A. Yes; I recall a few families that lived out there.

Q. Did any of those children go to school, or not?

A. Yes, sir.

Q. Where did they go to school?

A. The same place I did—came out to my uncle's and would wait for me to go with them. I was smaller than most of them. Uncle Billy Cotton had a family. His children went, and Mr. Taylor.

Q. Who operated that school; Tennessee, or Arkansas?

A. Tennessee.

Q. Do you remember any elections being held down there?

A. Well, I don't remember paying much attention until just before I was old enough to vote. I remember there used to be some confusion there, and I remember at election time, later on I did vote there. I cast my vote right there in that storehouse.

Q. That was approximately when?

A. I think 1882.

Q. Was the election, in which you voted, held under the [fol. 5] authority of the State of Tennessee, or the State of Arkansas?

A. Under the authority of the State of Tennessee.

Q. Mr. Michell, where was the voting, or polling place, at which that election was held?

A. In my uncle's store, right there—known as Chic, now.

Q. Do you remember the residences of any of the election officials?

A. I can't call to memory but one—a man called Uncle Alex. Hall; he lived out on the Island—worked on that island at Moss Point for years. I remember he was one of the officers, and Uncle Mac Taylor was always an officer.

Q. Where did he live?

A. On the island, he lived there when he was elected Justice of the Peace.

Q. You say "When he was elected Justice of the Peace." Was he ever elected Justice of the Peace?

A. Yes, sir.

Q. Mr. Taylor?

A. Yes, sir.

Q. When was that, approximately, Mr. Michell; do you know?

A. Well, it was in the eighties. I couldn't recall the year, but it was somewhere between '81 and '85.

Q. In that connection, did Mr. Taylor, while he was Justice of the Peace ever issue a warrant for you?

A. Yes, sir.

Q. Just go ahead and explain to the Court how that occurred?

[fol. 6] A. Well, we were required to work the road a couple of days—our law was there we were subject to road work six days out of the year—never worked that many, but always one or two days, and, I don't know—it was carelessness on my part, after I was warned I didn't go and work the road, and he issued a warrant for me, and one of the boys came and read it to me. So, I went out there. I didn't know what he was going to do with me, whether he would send me to jail, or not, well, he sort of chastised me a little, and wanted to know why I didn't obey the summons. I put up some excuse. He said, "I am not going to be hard on you, and make you pay out any hard earned money, but still I am going to make you work." He said "There is a big tree down there on that road those boys were going to take out and they didn't take it out." He said "You go down and take that tree out." And, I went down there and did it.

Q. Mr. Michell, you said Mr. Taylor was elected Justice of the Peace there, what State and County was it that he was elected Justice of the Peace for?

A. State of Tennessee, Dyer County.

STIPULATION

Mr. Tipton:

It is hereby stipulated that all the lands affected would be a part of Mississippi County, Arkansas, if adjudicated to belong to the State of Arkansas; and, a part of Dyer County, Tennessee, if adjudicated to belong to the State of Tennessee. Is that satisfactory?

[fol. 7] Mr. Taylor: No. We will admit that if the court finds that the boundary line is where Arkansas contends, that the lands affected will fall within Mississippi County Arkansas; and, if the Court finds the boundary line to be as alleged by the State of Tennessee it will fall within the boundaries of Dyer County, Tennessee.

Mr. Tipton: That is satisfactory.

Q. Mr. Michell, were you living in that vicinity when the Post Office was established at Chic?

A. I won't be sure. I was there just after it was established—I think I was working for an uncle of mine. I was in Caruthersville, Missouri, I think.

Q. You say you were there after it was established?

A. Yes, sir; I was there after it was established.

Q. Where was it located?

A. In this store at Chic.

Q. In your uncle's store?

A. Yes, sir.

Q. At Chic?

A. Yes, sir.

Gen. Tipton: I offer this letter as State of Tennessee's Exhibit No. 1.

The letter so introduced in evidence was accordingly marked "State of Tennessee's Exhibit No. 1" and will be [fol. 8] found among the exhibits hereto.

Q. Mr. Michell, when arrests were made on Moss Island, there, from what State would the Officers come who made the arrest?

A. State of Tennessee, Dyer County.

Q. Did you ever know of any of the residents down there voting in the State of Arkansas while you lived down there?

A. I never did.

Q. Did any officers, from the State of Arkansas, ever come across there to make any arrests, or serve any process?

A. Never heard of it; no, sir.

Q. On which side of the Mississippi River was this land in question when you first knew it?

A. On the Tennessee side—east side.

Q. On the east side?

A. On the east side.

Gen. Tipton: Take the witness.

Cross-examination.

By Mr. D. Fred Taylor, Jr.:

Q. When did you move away from that vicinity, Mr. Michell?

A. I left Tennessee, and went away from there about 1900.

Q. About 1900?

A. Yes, sir.

Q. I believe you testified that you lived on Moss Island, proper?

[fol. 9] A. Yes sir; as far as that island is concerned.

Q. Do you know appromimately where the boat sank—gun boat No. 7, in the old bend of the Mississippi River?

A. No sir; I have heard my older brother, and half-brother, and father and grandfather talk of those things, but it must have been during the Civil War; wasn't it?

Q. During the Cival War?

A. Yes, sir. I was hardly old enough to have any remembrance of anything like that.

Q. Do you know, approximately, where they dug some coal that is alleged to have sunk with the boat?

A. No, sir.

Q. You have heard about it?

A. Yes sir; I have heard those older people talk about it, but I wouldn't know just exactly where the location was. There was a Steamboat out op-osite Hale's Point, and they said this Steamboat had an iron safe in there, and that the safe had twenty thousand dollars in it.

Q. I was speaking about the coal deposits?

A. Oh, yes.

Q. You haven't been back in that vicinity since you left?

A. Yes sir; I used to go back until my children were grown. I never made my home back ~~there~~ any more, and I have not been back there, now, for twenty years.

Q. You haven't been back there for something like twenty [fol. 10] years?

A. I have been through Dyersburg and Finley in 1930; that is about eight years ago.

Q. Finley is not on the island?

A. What is that?

Q. Finley is not on the island?

A. No, sir.

Mr. Taylor: Nothing else.

Gen. Tipton: That is all.

Witness excused.

MR. E. M. HUFFMAN, the next witness, introduced on behalf of the defendant, State of Tennessee, having been first duly sworn, testified as follows:

Direct examination.

By C. M. Buck:

Q. Your name is E. M. Huffman?

A. E. M. Huffman; yes sir.

Q. What is your age?

A. Eighty-four years old.

[fol. 11] Q. Where do you live, now?

A. I live at Blytheville, Arkansas.

Q. How long have you lived at Blytheville?

A. A little over thirteen years.

Q. Where did you live prior to going to Blytheville?

A. Before I went to Blytheville?

A. Yes, sir.

A. At Huffman, Arkansas.

Q. Where were you born?

A. I was born there, at Huffman, Arkansas.

Q. Do you know what Section, Township and Range?

A. Section 32, Township 16, Range 13 east.

Q. You lived there all your life until you moved to Blytheville?

A. What did you say?

Q. You lived there all your life until you moved to Blytheville?

A. Yes, sir; lived there seventy years.

Q. Seventy years?

A. Yes, sir.

Q. What was your mother's maiden name?

A. Mary Bracken.

Q. Where was she born?

A. Well, I don't know, whether at the mouth of the Obion—I don't hardly think she was; born over there in Tennessee somewhere—I don't know where, exactly.

Q. Who was her father?

[fol. 12] A. Issac Bracken.

Q. Do you know where he lived?

A. He lived at the mouth of the Obion, in Dyer County, Tennessee. He owned up on the north side of the Obion River.

Q. Just on the north side of the Obion River?

A. Yes sir; all his property was on the north side of the Obion River.

Q. Did you visit him when you were a boy?

A. Which?

Q. Did you visit him when you were a boy?

A. Visit him?

Q. Yes.

A. Oh, yes. We would like to go there as long as he lived.

Q. What did you call that neighborhood where he lived?

A. Well, there was the Obion River, and then just above there they called it Bluegrass—all along there they called Bluegrass.

Q. Did you ever hear it called Moss Island?

A. What did you say?

Q. Did you ever hear it called Moss Island?

A. I don't think I ever heard it called anything but Bluegrass—and, below there was Hale's Point Landing.

Q. Do you know where the Post Office was that they call Chic?

A. Yes, sir; I can remember mighty well when there was no Post Office there. Mr. Michell owned property there, Bluegrass. I remember the place all right. There was no [fol. 13] Post Office there then.

Q. Did your grandfather, Isaac Brackin, live there close to the Michell place?

A. Close to which?

Q. Did he live close to the Michell place?

A. I guess two or three miles up there to Mr. Michell's place. My grandfather lived right close to the Mississippi River, and close to the Obion River.

Q. It was close to the Mississippi River, and on the north side of the Obion River?

A. Yes, sir.

Q. Did you ever hold any official position in Mississippi County?

A. Do which?

Q. Did you ever hold any official position in Mississippi County? (Arkansas.)

A. I was Justice of the Peace there about forty years in that township.

Q. In Hickman Township?

A. Hickman Township; yes, sir.

Q. You served how many years as Justice of the Peace?

A. I was elected—qualified and elected in '84, and moved to Blytheville the eighteenth of October, 1924. Just about forty years.

Q. Did you serve continuously during all that time?

A. All the time—never was out of office.

[fol. 14] Q. Do you know where Wright's Point is?

A. Yes, sir.

Q. And Musgraves Bar?

A. Yes, sir.

Q. Was that in Hickman Township?

A. Yes, sir.

Q. Do you know where the south line of Hickman Township was?

A. The boundary line?

Q. Yes.

A. It went down about six miles.

Q. Down to the mouth of the River Styx?

A. Yes, sir.

Q. Was that your southern boundary?

A. That was my southern boundary; yes, sir.

Q. Were you acquainted over there at Chic, or Blue Grass, with the people who lived there?

A. Well, I was over there often, and I had kin-folks at Obion when I was young.

Q. Did you know Mr. Stephen Michell, the gentleman who just testified here?

A. Yes, sir; I used to know him. I was over there with the boys—him and his brother.

Q. Do you know where the Slater place was located?

A. Slater?

Q. Yes.

A. It wasn't far from Mr. Michell's. It don't seem to [fol. 15] me it was very far from his place.

Q. During the forty years you served as Justice of the Peace for Hickman Township, Mississippi County, Arkansas, did you ever know of Arkansas asserting jurisdiction, either criminal or civil, over the area that you knew as Blue Grass?

A. No, sir.

Mr. Taylor: Now, if the Court please, that calls for an opinion, suggesting a conclusion; and, I am objecting to the

question and answer, and asking that it be stricken from the record.

The Master: Conclusion as to his jurisdiction?

Mr. Taylor: No. If he specifies it was his understanding no service of process had been exercised on this island by Arkansas Officials, he takes in all Arkansas Officials—doesn't limit it to his own office.

The Master: He was asked if he ever knew of any, and he said "No". Well, that was a fact, as to whether he knew.

Mr. Taylor: That is true; but, I was anticipating further on that line.

The Master: They didn't ask him whether that jurisdiction was ever exercised. They might call upon him to exercise his conclusion as to whether it was done by others, without his knowing it. They didn't. They asked him if he ever knew it.

Mr. Buck: I am undertaking to prove, by reputation, as far as he knew no jurisdiction was exercised.

[fol. 16] The Master: It is a fact as to whether he knew of it. The fact that he don't know of it is a fact. It may not prove it wasn't done.

Mr. Taylor: I missed the first part of your question. Very well. I withdraw the objection.

Q. Was jurisdiction in your Court, as Justice of the Peace, ever undertaken to be exercised over property or citizens living on Moss Island, or Blue Grass?

A. No, sir.

Q. Never was?

A. No, sir; never was.

Q. During the years that you knew this area, and the people who lived on it, was it spoken of as being in Tennessee or Arkansas?

A. In Tennessee. I never heard it called Arkansas in my life.

Q. Where were the elections held in Hickman Township during the years that you were Justice of the Peace?

A. Held?

Q. Yes.

A. Well, two places. First held down in Hickman, in the lower part of the District; and, then, they moved it to Huffman. Hold it there yet. Have elections in two places.

Q. After you became of age, did you vote in those elections?

A. What did you say?

Q. After you became of age, did you vote in those elections?

A. Oh, yes. I never missed an election.

[fol. 17] Q. Did you, or not, frequently serve as an officer of election?

A. Serve as officer?

Q. Yes.

A. Oh, yes. I have been Judge and Clerk of Election both, lots of times.

Q. Did anyone, to your knowledge, living over at Blue Grass, or what is known as Moss Island, vote, or attempt to vote, in Hickman Township, at any of those elections?

A. No, sir.

Q. Do you know where the people who lived over there voted?

A. What is that?

Q. Do you know where the people who lived over at Blue Grass, and Chic, voted?

A. No, sir; I don't know as I know of my own knowledge just where they voted.

Q. Which direction did Blue Grass, as you knew it, or Chic, lie from the Wrights Point?

A. Well, it was across the river, and north.

Q. North, and across the river?

A. Yes, sir. Blue Grass, as far as I know, might have been on down to the mouth of the Obion. Wrights Point Landing, on the Arkansas side, was about even with the mouth of the Obion in Tennessee.

Q. It was east of what township—Civil Township, in Mississippi County?

[fol. 18] Q. Township?

Q. Yes. It was east of what township?

A. Well, Hickman Township.

Q. Hickman Township?

A. Yes, sir.

Q. The township in which you served as Justice of the Peace?

A. Yes, sir.

Gen. Tipton: I think that is all.

Mr. Taylor: No questions.

Witness excused.

MR. G. L. SCOTT, the next witness introduced on behalf of the State of Tennessee, the defendant herein, having been by the Master first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Mr. Buck:

Q. What are your initials?

A. G. L. Scott.

Q. How old are you, Mr. Scott?

A. I was sixty-five the 13th of May—born in '73-1873.

That makes me some over sixty-five.

[fol. 19] Q. Where do you live now?

A. Blytheville. (Arkansas)

Q. Are you acquainted with Moss Island?

A. Well, yes—right smart.

Q. When did you first know it.

A. It was eigher '97 or '96. 1897 or 1896, the first time I knew it. I believe I could say 1896, in the fall, the first time I knowed it was there.

Q. What were you doing down there?

A. I was working for John Brannin, cutting timber off of Moss Island.

Q. Do you know whose land you were cutting it on?

A. On Moss Island—Moss' timber. Cutting it and floating it out.

Q. Where did you live during that time?

A. At that time I lived at Lexington, Tenn., where I was born.

Q. When cutting timber?

A. I lived with Mr. Brannin, on Moss Island.

Q. Where did he live, with reference to the Post Office at Chic?

A. Well, the best I could say, I believe about three miles east of chick, close to Tiger Tail.

Q. How long did you remain on the Island?

A. Well, at that time, I just stayed something like about two months, that year, in '97—I came back after the water [fol. 20] went down, and I lived with my brother. He married Mr. Brannin's daughter. He lived on Moss Island, and had been married, I think, something like a year. In '97 I came back down there and lived with my brother. I went through one crop of '97; and in the fall of '97 I came out

there; and, the next time I went back was in 1902; and, I married at Blue Grass in 1902.

Q. You say you first went down there and lived with your brother. What was his name?

A. Sam Scott.

Q. Sam Scott?

A. Yes, sir.

Q. And you married there in 1902?

A. Yes, sir.

Q. Who performed the ceremony?

A. Well, the Magistrate then was Squire D. Moss, at that time.

Q. Did he live there on the island?

A. He lived on Blue Grass. I guess that is supposed to be the island that is called Blue Grass Island. That is what I have always been told; Moss Island, Little Blue Grass, Big Blue Grass, and all that there combined.

Q. He was the Justice of the Peace?

A. Yes, sir; in that District.

Q. Do you know under what jurisdiction he was serving; whether Tennessee or Arkansas?

[fol. 21] A. Tennessee.

Q. Did your brother hold any official position there?

A. Yes, sir. I think it was the year before I was married he held the position of Deputy Sheriff at Dyersburg.

Q. He was Deputy Sheriff?

A. Yes, sir.

Q. And he lived where?

A. On Blue Grass.

Q. On Blue Grass Island or Moss Island?

A. Yes, sir.

Q. Whose place did your brother live on?

A. I just don't remember. I believe that he lived on Mr. ~~—~~. I just won't be sure. I think it was Mr. Moro. I wouldn't say that Mr. Moro owned the lands, but he was renting from Mr. Morro on the shares.

Q. You say he married Mr. Brannin's daughter?

A. John Brannin.

Q. Did you pay any taxes while you were living on Moss Island?

A. After I was married I paid road-tax, and poll-tax.

Q. Where did you pay your taxes?

A. At Chic.

Q. There at Chic?

A. Yes, sir.

Q. Who collected them?

A. Well, Mr. Moro Michell was running the store; but, I don't remember who was the collector.

[fol. 22] Q. Were they paid as Tennessee Taxes, or Arkansas taxes?

A. Tennessee taxes.

Q. Tennessee?

A. Yes, sir.

Q. Did they hold elections there?

A. Yes, sir.

Q. Where did they hold them? Where did they vote?

A. They voted on Blue Grass one year, and then they moved it to Chic, in the store.

Q. In the store?

A. Yes, sir.

Q. Do you know what place they voted at the year before that?

A. At the school-house.

Q. At the School House?

A. Yes, sir.

Q. And then you say one year that you were there they voted at the store at Chic?

A. Yes, sir.

Q. In what state were they voting? What officers were they voting for?

A. For all the County Officers and all the State Officers, just like they do anywhere else, and District Officers, and Magistrates.

Q. Do you recall who was running for election?

A. Dawson was running for Sheriff.

Q. Of what county?

[fol. 23] Dyer County.

Q. Dyer County, Tennessee?

A. Yes, sir.

Q. And they held the election there?

A. Yes, sir.

Q. Where did those who lived on Moss' farm, and Brandin's farm, back on Moss Island, vote?

A. When Brandin lived there, it was either '96 or '97, I won't be sure. '96, I think, when Brandin first went on Moss Island, in toward Tiger Tail, and he moved from there up near Heloise, above Chic something like four miles,

maybe five, from the mouth of the river up to Brandin's Point, where he bought, himself. He bought a strip of land between the big chute and the bank of the river--what is called the little chute.

Q. What I am asking you is where did those people who lived on Moss Island, the Mosses, Brandins, vote--Brandin's and Mosses, and others, vote?

A. Oh, they voted at Chic.

Q. Voted at Chic?

A. Yes, sir.

Q. Was that in the election you spoke of a while ago, for the officers for Tennessee?

A. Yes, sir.

Q. Tennessee Officials?

A. Tennessee election, in Dyer County.

Mr. Buck: I think that is all.

[fol. 24] Mr. Taylor: No questions.

Witness excused.

MR. C. C. JOHNSON, the next witness, introduced on behalf of the State of Tennessee, defendant herein, being first duly sworn by the Master to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination.

By Gen. Tipton:

Q. This is Mr. C. C. Johnson?

A. Yes, sir.

Q. Where do you live, Mr. Johnson?

A. I live at Chic.

Q. What particular farm do you live on down there?

A. I live on B. L. Hendrix' farm there, on Moss Island.

Q. State whether or not that is the old C. C. Moss farm?

A. Yes, sir.

Q. How old are you?

A. 48.

Q. Where were you raised?

A. Down at Chic.

[fol. 25] Q. In that vicinity?

A. Yes, sir.

Q. Did you know where the old Michell Store was down there?

A. I have always been going to it, as long as he lived there and ran it. I don't know whether I can find it on that plat there, or not.

Q. Now, I hand you here a map that will be formally in proof a little later on (handing witness plat). This is facing north.

A. Here is Michell Lake. My house is south of this.

Q. This is a concrete highway, Mr. Johnson, up here, if you will notice.

A. Yes, sir. Here, this here is the old Slater farm.

Q. Who owns that?

The Master (Interrupting): The witness is pointing to the Courtland—Freidland Entry No. 401.

Q. This is a concrete road, indicated on this map. This is a dirt road running north 55 degrees east.

The Master: Is what you just pointed to as a dirt road, is that shown as a dirt road on this plan? If not, you had better show what you were pointing to when you said "Dirt road."

Mr. Taylor: If your Honor please, the witness was asked to locate on the map where he lived. I object to this witness explaining any of these marks on there unless he is the party who made the map.

The Master: Well, I suppose you can't see it is a dirt [fol. 26] road unless you made the map.

Gen. Tipton: If you will permit me, I will let Mr. Johnson stand aside a minute and prove the map by Mr. Brayton.

The examination of the witness was here suspended to permit another witness to testify.

MR. L. O. BRAYTON, the next witness, being first duly sworn to tell the truth, the whole truth, nothing but the truth, testified as follows:

Direct examination.

Gen. Tipton:

Q. This is Mr. L. O. Brayton?

A. Yes, sir.

Q. Where do you live, Mr. Brayton?

A. Dyersburg.

Q. How old are you?

A. Fifty-three.

Q. What is your profession?

A. Civil Engineer.

Q. Where did you study Civil engineering?

A. Syracuse University, Syracuse, New York.

Q. When did you graduate?

A. 1909.

Q. How long have you been a practicing Civil Engineer?

[fol. 27] A. Every since I graduated.

Q. Do you mind telling some of the positions you have held as such engineer—some of the work you have done?

A. Assistant Engineer for the New York, New Haven & Hartford Railroad; Assistant Engineer for the City of Ithaca, New York; and, I worked for the New York Central Railroad, and the C&EI RR. Since 1916 I have been in private practice at Dyersburg, Tennessee. Since then I have been handling Water works, road work, sewers, etc.

Q. I will ask you to examine the map lying here before you, and state whether or not you made that map?

A. Yes, sir.

Q. Does that correctly represent the locations of the various Tennessee Entries in the section which it covers?

A. Yes, sir.

Q. Where did you obtain the data, Mr. Brayton, for these Entries—at what point?

A. I obtained the entries from the records in Dyersburg.

Q. From what office in Dyersburg?

A. From the Courthouse.

Q. I call your attention to an entry here marked, "Entry No. 734, McLemore & Terrell, for 1436 acres." That is detailed on the map. I hand you here a certified copy of that entry, authenticated under the Acts of Congress, and ask you if this is the entry from which you made this?

[fol. 28] A. Yes, sir; that is correct.

Q. Will you please file this as Tennessee Exhibit No. 2?

A. I do so.

The certified copy was accordingly marked "Tennessee Exhibit No. 2," and will be found among Exhibits hereto.

Q. I hand you here a certified copy of entry No. 31, authenticated under the Acts of Congress, and ask you—in the name of James Manny, and ask you to examine that and see if that is depicted on your map?

A. That is correct.

Q. Please file that as Tennessee Exhibit No. 3?

A. I will do so.

The certified copy of Entry No. 31 was accordingly marked "Tennessee Exhibit No. 3." And will be found among exhibits hereto.

Q. I hand you here an authenticated copy of Entry No. 4 in the name of William B. Jones. Please locate that on the map, or, rather, state if that is shown on the map in its correct location?

A. Yes, sir.

Q. Please mark that "Tennessee Exhibit No. 4."

A. I will do so.

[fol. 29] The Entry was accordingly marked "Tennessee Exhibit No. 4," and will be found among the exhibits hereto.

Q. I hand you certified copy of an Entry for 600 acres, in the name of William B. Jones. I wish you would examine that and locate it on your map, and state whether or not it is correctly shown on your map?

A. Yes, sir; it is.

Q. Please make that "Tennessee Exhibit No. 5."

A. I will do so.

The Entry above referred to was accordingly marked "Tennessee Exhibit No. 5." And will be found among the exhibits hereto.

Q. Mr. Brayton, I hand you here certified copy of an Entry in the name of Chas. C. Moss, for 3,000 acres of land. First, state, after examining your map, whether or not that Entry is shown on your map. Under that title?

A. Yes, sir; that is indicated by this red line.

(Witness points to a red line, which, at the request of the Court he marks with the letters A, B, C and D, in blue pencil the witness then states that, between the points A and D the line follows the Obion River.)

Mr. Tipton: We want to make this certified copy "Tennessee Exhibit No. 6."

[fol. 30] The certified copy was accordingly marked "Tennessee Exhibit No. 6." And will be found among the exhibits hereto.

The Master: Do I understand that this grant, 96, of 5,000 acres includes the grants shown on this map under the following titles, included within the area that you have just marked; namely, Joseph A. Evans, lot No. 3, 801 acres; John B. Armstrong, lot No. 2, 400 $\frac{1}{2}$ acres; Albert Moore, Wm. H. Syen, Thomas L. Armstrong, lot No. 1, 699 $\frac{1}{2}$ —are all these lots, one, two, and three, in the name of Evans, Armstrong, Moore, Syen, Armstrong, included in the area of the Martin Armstrong's grant?

A. Yes, sir. This is a subdivision, as I understand.

The Master: Let the record show that the witness points to lot No. 2.

The Witness: (Interrupting) No, these dotted lines represent subdivisions of the Martin Armstrong Grant.

The Master: Let the record show that the witness points to the dotted lines on the paper between the lines—lots one, two, and three to which the Master referred.

The Witness: Later there was a lawsuit in regard to this particular tract—this particular grant, and I couldn't tell you about that lawsuit.

The Master: So this Martin Armstrong Grant also included Lot No. 4, Mary Anne Elizabeth, 599 $\frac{1}{4}$ acres, al- [fol. 31] though Lot No. 4 Falls in part on the right side of the Obion River?

A. Yes, sir.

By Gen. Tipton:

Q. Let me ask you this question, Mr. Brayton: was there an overlap between the Martin Armstrong 5,000 acres and the C. C. Moss 3,000 acre grants?

A. Yes, sir; there was.

Q. On this map, just indicate where that overlap came, please, sir; and, if you desire to place any letters or numerals to indicate it you may do so.

A. I would rather not answer that about the overlap that had to do with a lawsuit between C. C. Moss—the C. C. Moss heirs, possibly, and the Martin Armstrong interest.

Q. Mr. Brayton, I hand you here Tennessee Exhibit No. 7, certified copy of McLemore & Terrell entry there. I wish you would state what that certified copy of the entry shows as the west line of that entry?

A. You want me— What was that question?

Q. I asked you what that entry shows; what the certified copy of the entry shows as the west line of McLemore & Terrell entry?

A. You mean where the west line goes?

Q. Yes.

A. *You mean where the west line goes?*

Q. Yes.

A. The west line is indicated by—I think it starts at the [fol. 32] southwest corner, "Low Water Mark, two small elms."

Q. Now, read into the record the calls for that west line?

A. "Beginning at 2 small elms at low water point of said Island in 11th Range, running out to the bank of the main channel in western chute, north 25 degrees east 44 north 4 degrees east 70 poles, north 18 degrees west 160 poles—in all 270 poles to a box elder and sycamore marked "M" at the upper point of said chute, north 55 degrees east 340 poles to a cotton wood, elm and sycamore marked "M" in the west boundary line of Grant No. 96."

The Master: Suppose you put a mark on your line in blue pencil.

Gen. Tipton: Suppose we start with the mark "X"? Please mark the beginning point "X" with blue pencil.

(Witness does as requested.)

Q. Please make the upper point of the chute first "Y" in blue pencil.

(Witness does as requested.)

Q. Please mark the point of intersection at the west line of the Armstrong Grant in blue pencil with the letter "Z"?

(Witness does as requested.-

The Master: Has that been marked?

Gen. Tipton: Yes; that has been marked "Tenn. Ex. No. 7".

Q. I hand you here copy of Grant No. 4358, to James [fol. 33] Singleton, et al., and ask you to compare the de-

scription with the description of the McLemore & Terrell 1436 acre entry.

A. There seems to be a little difference.

Q. State whether or not they cover the same tract of land?

A. Yes, they do.

Q. Now, you stated that there was some slight difference.

I wish you would explain what that is, Mr. Brayton, with reference to the line upon your map, Y-Z, and this—where it lies?

A. The difference is in the line "Y-Z," which includes three hundred forty-four poles—one calls for 344 poles and the other calls for 350 poles.

Q. Is there anything else in connection with the copy of the grants I have just handed you, in connection with that line Y-Z?

A. No, sir.

Q. Read it?

A. This?

Q. Yes. I don't mean for you to read it in full. Read on the copy of the grant the calls for the line Y-Z?

A. That is "North 55 degrees, east 340 to a Cottonwood, Elm and Sycamore, marked 'J. M.' "

The Master: Is it plain, what the witness said?

Gen. Tipton: Read the language which immediately precedes the call there, Mr. Brayton?

A. You mean the call before this?

[fol. 34] Q. Read the language that precedes the call that you just read.

A. "In all 270 poles to a box elder and sycamore marked J. M., at the upper point of said island, thence down with the meanders of the bank of the eastern chute, north 55 degrees east 340 poles to a cottonwood, elm and sycamore marked J. M., the west boundary line of grant No. 96 of the State of North Carolina of 5,000 acres..

Mr. Taylor: You are reading from an exhibit?

The Witness: From Tenn. Ex. No. 7; yes, sir.

Q. Mr. Brayton, I hand you copy of grant to Z. B. Phillips and James H. Doyle, and ask you to state whether that is shown on your map under the appropriate designation?

A. That is correct; yes, sir.

Q. Please make this "Tennessee Exhibit No. 8".

The exhibit was accordingly marked Tenn. Ex. No. 8, and will be found among the exhibits hereto.

Q. I hand you here copy of grant for a thousand acres to Isaac Sampson and ask you to examine your plat and see if that is located thereon at the proper place, as shewn on the map?

A. Yes, sir.

Q. Please make that "Tenn. Ex. No. 9."

A. I do so.

The exhibit was accordingly marked "Tenn. Ex. No. 9," [fol. 35] and will be found among the exhibits hereto.

Q. I hand you now a grant to G. A. Connally and his brother, of 2 hundred acres. I wish you would examine that and see just what that is shown by on your map, please sir?

A. Yes sir; that is shown on the map and marked exhibit 10.

Q. What entry does that grant cover, Mr. Brayton? What entry on the map does it cover, the grant in the name of G. A. Connally?

A. It shows on the map as entry No. 43, in the name of John Branch and A. O. W. Tatum, for 2 hundred acres.

Q. I will ask you to make that "Tenn. Ex. No. 10."

A. I do so.

The paper was accordingly marked "Tenn. Ex. No. 10," and will be found among exhibits hereto.

Q. I hand you here Tennessee grant No. 16093, in the name of Chas. C. Moss, for 3,000 acres, and ask you to state what territory on the map that cover, Mr. Brayton?

A. (After examining map.) What is it?

Q. Does that cover the area designated on your map by A, B, C, and D, in blue pencil?

A. Yes sir; it does.

Q. Please make that Tennessee Exhibit 11?

A. I do so.

[fol. 36] The paper was accordingly marked "Tenn. No. 11," and will be found among the exhibits hereto.

Q. I hand you grant No. 4502, for six hundred acres, to John Williams, and I will ask you to please examine that

and see what entry that covers on your map, if it covers an entry?

A. That covers the tract I have marked "W. B. Jones 600 acres."

Q. Give the date of that, please sir?

A. December 20, 1838.

Q. Please make that "Tenn. Exhibit No. 12."

A. I do so.

The paper was accordingly marked "Tenn. Ex. No. 12," and will be found among the exhibits hereto.

Q. Please examine grant No. 4503, which I hand you, or a copy thereof which I hand you, and state whether or not that is shown on the map; and if so how?

A. That is shown on the map in the name of W. B. Jones, 456 acres, dated November 15, 1838.

Q. I will ask you to please mark that Tennessee exhibit 13?

A. I do so.

The paper was accordingly marked "Tenn. Ex. No. 13, [fol. 37] and will be found among the exhibits hereto.

Q. Mr. Brayton, on your map there, is there a concrete road shown?

A. Yes, sir.

Q. I wish you would outline it, please, sir.

A. It is all ready marked "Concrete highway," and I will mark it in blue.

Q. Trace it further down in blue, please, sir, for the benefit of the record.

(Witness does as requested.)

Q. Mr. Brayton, do you know where the old store at Chic was located?

A. Yes, sir.

Q. Please designate that on the map, if you have not all ready done so?

A. It is all ready marked in blue; marked "Store."

Q. I will ask you to examine and state whether or not the location of that old store was on the McLemore and Terrell 1436 acres?

A. Yes, sir.

The Master: Did you ask him about a dirt road?

Q. Near that store is there a dirt road leading in any direction?

A. There is a dirt road leading from, you might say from [fol. 38] the Chic Store in a northeasterly direction.

Q. Please indicate it on your map in red or blue dotted lines?

A. I will indicate it in red dotted lines.

Q. Have you correctly shown the various entries on there, on this map, Mr. Brayton?

A. Yes, sir.

Q. I notice that there seems to be a vacancy lying between the McLemore & Terrell Entry, No. 1436, the Jones Entry of 456 acres, and what is shown as the Pourtland Friedland Entry there, No. 401, and I wish you would state whether or not there is an entry that covers that?

A. Yes sir; there is.

Q. Why wasn't it shown on the map?

A. That entry covers a large area that had all ready been granted—in other words, it was an overlap, in this—this small area here.

Q. Suppose you designate it. Call it G?

A. It is designated in blue pencil "G", that is all there was left of that entry.

Q. Do you remember in whose name that entry was made?

A. I believe that was the Isaac Sampson of a thousand and five acres.

Q. Please make this map "Tenn. Ex. No. 14.-

A. I will do so.

[fol. 39] The map was accordingly marked "Tenn. Ex. 14 and will be found among the exhibits hereto.

Q. There is one further question. Mr. Brayton, I believe you stated, earlier, that you came to Dyersburg in 1916, and have been engaged in private practice since that time?

A. Yes, sir.

Q. In that time have you had occasion to make much or little examination of the records of the register's office of Dyer County?

A. I have had quite a lot of opportunity.

Q. Is that the office in which conveyances, deeds, entries and grants etc., are recorded in Tennessee? Also surveys?

A. In Dyer County; yes sir.

Q. In the register's office?

A. Yes, sir.

Q. I wish you would state whether or not you have found any evidence that any portion of this land in controversy was ever surveyed by the Federal Government, or sectionalized?

A. I have never been able to find out where it was surveyed. I wrote Washington, the State of Tennessee, and the state of North Carolina, and some historical organizations, and they had no record of it.

Q. I want to ask you this, too: In going over these various boundaries, have you ever had any reference—I mean have you ever run across any descriptions of any kind that tended [fol. 40] to indicate that the land had ever been surveyed by the United States Government?

A. No, sir.

Q. I notice on some of these descriptions here, that they call for certain Surveyors Districts, and certain range. Can you explain how that comes about?

A. Not definitely; no, sir.

Gen. Tipton: I believe that is all that I care to ask him at this time.

Cross-examination.

By Mr. Taylor:

Q. Mr. Taylor, do you call that a complete map of that area in there?

A. It is a survey.

Q. Is it a complete map?

A. What do you mean by "a complete map"?

Q. I mean does it show all of the grants of land in that area?

A. It covers all the grants except one, and that is this one here.

The Master: Let the record show the witness is pointing to "G".

Q. Why didn't you put that on there like the rest of them?

A. There was such an overlap there would be so many marks on the map, I thought it would be better not to show it. I have it marked on the original tracing.

[fol. 41] Q. It was a valid grant, as compared with the rest?

A. It was a later grant, and took in land that had already been granted. It went from this point to the Obion River.

Q. Is this grant you refer to, or record, the same as these other grants?

A. Yes, sir.

Q. But you left it off of this map?

A. I left it off, but I have it marked on the tracing.

Q. I am talking about this map that is an exhibit to your testimony.

A. Yes, sir.

Q. I don't see any scale on this map, neither do I see any directions; north, south, east or west.

A. The scale is, one inch equals 800 feet.

The Master: Let the record show that the witness writes this on the map.

The Witness: The top of the map is north.

The Master: Let the record show that the witness places on the map in the lower right-hand corner an indication of the compass directions.

Q. You followed the description as set out in these grants in making the location of the tracts on your map; is that correct?

A. The location of the grants; yes, sir.

Q. You followed the description as set out by the exhibits [fol. 42] already introduced, showing a portion of the grounds?

A. Yes, sir.

Q. The map shows the correct location of Brackin Lake, and the Obion River?

A. Yes, sir; and, also, the Mississippi River.

Q. And the Obion?

A. And the Obion.

Q. I wish you would take something to measure it by, and state the number of feet from the upper point of Brackin Lake, where the line C-D crosses same, and state how many feet it is from the western shore line of that lake to the western boundary, as indicated on the map, of the Terrell & McLemore Grant.

Gen. Tipton: May I suggest you change that? The name of the grant is in the name of Singleton.

Mr. Taylor: It is indicated on the map that way.

Q. Make that Terrell & McLemore entry to comply with the description on the map.

A. I didn't get your final point. You want to go to what point? You want to go to the southwestern corner?

The Master: In other words, what the distance is from the point T to the point U, in a direct line.

The Witness: It is approximately 15,600 feet.

Q. How many inches?

A. That is 19½ inches.

[fol. 43] Q. 19½ inches?

A. Yes, sir.

Mr. Tripton: Will you translate that into miles, if you don't mind? How many miles? On the same line, stopping at point C, how many poles from T to C? Does this mark 689 P, or 625 P, indicate the number of poles; and, from what points?

The Witness: The distance 625 poles indicates the distance from the southwest corner of the Martin Armstrong Grant, No. 96, to the dotted line, which is the southwest corner of Lot No. 1, of 699½ acres.

The Master: In other words, it indicates the distance between the points C and the point which you may mark T-1?

The Witness: Yes, sir; the 689 poles indicates the distance from the southwestern corner of the Martin Armstrong Grant, No. 96, to the point—at the point C to the point T.

Q. Please state the number of feet from point C at the southwest corner of the Martin Armstrong Grant north to the Obion River?

A. Approximately 12,000 feet.

The Master: That is from point C to point B-1?

The Witness: Yes, sir.

Q. Approximately how many feet?

A. 12,000 feet.

[fol. 44] Q. Is that a long, or short 12,000 feet? You can tell from the map.

A. It indicates approximately that—I have a small rule over here—that is very close.

Q. That is very close?

A. Yes, sir; I think so.

Q. 12,000 feet, even?

A. Yes, sir.

Q. I believe you testified that you drew all these entries on this map from the description as reported in these grants and entries?

A. Yes, sir.

Q. Did you follow the entry, or the grant, in drawing the James Manny entry, of 1426½ acres?

A. The way I got it there, from 1916 to 1919, I spent a considerable amount of time in this locality running out these lines; and, the south line of Entry No. 31, which is covered by Exhibit 3, I located the south-line of Entry No. 31, as indicated by this dot and dash line running between R, on the Mississippi River, to S on the west line of the Martin Armstrong grant.

Q. Is that the way you located that James Manny grant?

A. Yes, sir.

Q. You didn't pay any attention to the description then in your Exhibit 3 to your testimony?

A. Yes, sir.

[fol. 45] Q. Did you use this line R to S as a basis, or did you follow the description as set out in your Exhibit 3?

A. You want to know which one I used? I used the entry when I made this.

Q. You used the entry?

A. Yes; I used the entry; but, the entry and the survey lines coincide. That line is located on the ground—was located on the ground.

The Master: In accordance with the survey?

The Witness: Yes; in accordance with the survey.

Q. I read from Tenn. Ex. No. 3 the following calls: "Beginning at a stake with three ash, two elms and a hickory marked as pointers, 286 poles east of the northwest upper corner of Joseph Michell's 416-2/3 acre entry and his northwest corner, running from thence north one hundred and sixty poles to a willow and persimmon and pointers in the edge of a pond or low flat." Did you follow that line, Mr. Brayton?

A. I didn't run that line. I followed that line from the description.

Q. Does the line we have marked on the map coincide with the description we set out in this description from which I am reading?

A. Yes, sir.

Q. Continuing in the reading of these calls: "thence east three hundred and eight poles to a small sycamore and large [fol. 46] cottonwood marked "M" and pointers standing in the top of the second bank of the Obion River, about 60 feet from the edge of the water at low water mark." Did you follow that description in drawing that line on that map, describing that entry?

A. (No response heard.)

Q. Why do you have to do so much figuring, Mr. Brayton, with a scratch pad? Aren't you familiar with the details of that map?

A. One is in poles, and the other is in feet. I was going to reduce them.

Q. It is taking you a mighty long time to decide. This description in the entry, state whether or not you followed it in drawing the line indicated on the map?

A. I followed the description.

Q. You stated it is indicated in feet at one place and poles in the other?

A. What I mean—

Q. (Interrupting.) You are mistaken in that.

Gen. Tipton: Let him finish his answer. The witness was going to say something.

The Witness: In engineering work, you make your surveys in feet. In all these entries, they are made in poles; and, you have to reduce the poles to feet. That is what I did.

Q. You have marked on the upper part of this entry the figures designating the poles; have you not?

[fol. 47] A. 380 poles. In order to scale that, the scale is in feet.

Q. That description in the entry says poles; so, why did you have to figure to reduce it to feet to answer my questions?

A. I don't know that I did have to.

Q. It wasn't necessary; was it?

A. No, sir.

Q. State whether or not you followed this description, in carrying forward the points of that entry, "thence down said river as it meanders south 73 degrees west 66 poles." Show on the map where you carried the boundaries of that grant south 73 west 66 poles, following the meanders of that river.

A. (Interrupting.) South 66 degrees, or west?

Q. South 73 degrees, west 66 poles.

A. In following this river line, I ran the actual river line down the west line of the Martin Armstrong tract to this point here.

The Master: Indicating a point north.

The Witness: B to Q. This is an actual survey. I used that as the description between those two points.

Q. Then you say that these calls, as I have read, are properly depicted on this map?

A. As near as I can get them. You take the entries, they are not accurate. I never have found an entry exactly [fol. 48] accurate. There are some small discrepancies. In other words, the river could have changed just a little bit, which would change it, also.

Q. In reality you followed the River, and ignored the description of this?

A. From these two points; yes, sir.

Q. Previously your statement was that you followed the description in making the map. That is in error; you did not follow the description?

A. I followed these descriptions as closely as I could.

Q. I will continue reading from the last point on the River; following the meanders, "south 38 degrees, west thirty-two poles,".

A. That land is like I told you; between Q and B-1 was located by actual survey, and that applies between those two points, Q and B-1.

Q. You don't mean to infer that the distance—meanders of the Obion River between Q and B-1 are only 32 poles?

A. No, sir.

Q. 66 poles?

A. No, sir.

Q. All right. I will continue reading: After passing the last "station we just read, 38 degrees, west, thirty-two poles," this description continues: "south 20 degrees, east, 28 poles." Now, show on that map where you drew that line?

[fol. 49] A. I can show you on this map, right here.

Q. As a matter of fact the lines which would match this description I am reading are not on that map; isn't that true?

A. The lines?

Q. The lines I am reading from here.

A. They are not?

Q. Are not on that map?

A. No, sir; not those particular lines, but the line covered by this entry is indicated by the map.

Q. I will continue reading: The last call was, "south 20 degrees, east 28 poles." Now, following that is: "South 75 degrees, east fifty-four poles." Can you show that marked on there?

A. I don't have that indicated.

Q. I will ask you if this further description, "south 64 degrees, east 20 poles," is that shown on there?

A. That is not shown on there.

Q. Continuing, "south 41 degrees, east 60 poles; is that on there?

A. No, sir.

Q. That is not on there?

A. No, sir.

Q. "South seventy-five degrees, east 50 poles;" that is not on there; is it?

[fol. 50] A. No, sir.

Q. "South 56 degrees, east 66 poles;" that is not on there; is it?

A. No; that is not on there.

Q. "North 69 degrees, east 38 poles"?

A. No, sir.

Q. "South 82 degrees, east 24 poles"?

A. No, sir.

Q. It is not shown?

A. No, sir.

Q. Why, Mr. Brayton, in response to Gen. Tipton's question, regarding the overlapping of the Armstrong and the Moss grants, did you refuse to answer his question, and show it on the map? It is a matter of record; isn't it?

A. Yes, sir.

Q. Why, please explain, have you left off so many recorded instruments from this map?

A. I show the Moss entry.

Q. I am speaking of the overlapping.

A. The overlapping?

Q. Yes. Can you explain that?

A. I show the Moss entry, and I show the Martin Armstrong.

The Master: I understand the overlapping would be covered by the area marked "G"; is that right?

The Witness: Yes, sir.

[fol. 51] The Witness: No, no. That is different.

The Master: Now you are talking about another overlapping?

The Witness: Yes, sir.

The Master: Where is the other overlap? Will you read that question again? I assumed you were talking about one overlap, and you were talking about another.

Mr. Taylor: As I understand, Mr. Tipton asked Mr. Brayton on direct examination if there wasn't an overlap between the Armstrong Grant and the Moss Grant; and, Mr. Brayton said "Yes". And, Mr. Tipton said, "Will you please show us where that is on the map?" And, Mr. Brayton said he would rather not.

The Master: He would rather not?

Mr. Taylor: He would rather not show it. I asked him, just now, if it is not a matter of record that this grant—this map, showed that he had left off some things that apparently belonged on that.

The Master: Are those grants, also, from the State of Tennessee?

Mr. Taylor: Yes, as I understand he has said they were from the State of Tennessee.

Mr. Taylor: If the Court please, I would like to eat.

The Master: You mean you would like to have a little time to consider your further cross-examination?

[fol. 52] Mr. Taylor: No; but, I think I will possibly have a few more questions to ask.

The Master: What about this gentleman that stepped aside; couldn't we get through with him, and let him go?

Gen. Tipton: Can you hold out for 15 minutes longer?

Mr. Taylor: Yes.

Witness excused.

MR. C. C. JOHNSON, the next witness, being recalled to complete his testimony, testified further as follows:

By Gen. Tipton:

Q. I believe you said you had been living on Moss Island practically all your life?

A. Yes, sir.

Q. How many people have been living on Moss Island, roughly, over the turn of the years?

A. All this year, you mean; or, all the time?

Q. Just all the time. Generally, about what is the population down there?

A. Quite a number; I don't know just how many.

Q. Enough of them there to vote?

A. Yes, sir.

Q. Where did they hold the election for those people who voted, the residents of Moss Island?

[fol. 53] A. Ever since I recollect, Chic's Store.

Q. By what State was that election held? Tennessee, or Arkansas?

A. Tennessee.

Q. Did the inhabitants of Moss Island work the roads?

A. Yes, sir.

Q. By authority of what state; Tennessee, or Arkansas?

A. Tennessee.

Q. Did any people down there get married in that area, on Moss Island?

A. Yes, sir.

Q. Who married them?

A. For a number of years, old man J. Esther Moss.

Q. He is Justice of the Peace down there?

A. Yes, sir.

Q. From what state did those people get their marriage licenses?

A. They got them in Tennessee.

Q. Any children down there on that Island, since you have been big enough to remember?

A. Yes, sir; been there for a number of years.

Q. Do they raise children on that island, like they do everywhere else?

A. Yes, sir.

Q. Do those children go to school?

A. Yes, sir.

[fol. 54] Q. Where do they go to school?

A. It was that school at Blue Grass, until they got the Chic Post Office there.

Q. What state is operating that school; Tennessee, or Arkansas?

A. Tennessee.

Q. Do you remember the Post Office at Chic?

A. Yes, sir.

Q. Where was it located?

A. In Mr. Michell's store.

Q. When a crime was committed down there, what officer came down and arrested them; officers of what state?

A. Mr. C. C. Dawson is High Sheriff, at Dyersburg—of Dyer County; and, some of the Deputies out of Tennessee.

Q. Since you have been living down there, have you ever known of any officers from Arkansas coming over there to arrest criminals, or serve processes on anybody for crimes committed down there?

A. No, sir.

Q. Have there been any poll-taxes collected from those people down there on the island?

A. Yes, sir.

Q. By what state?

A. Tennessee.

Q. Have you ever known of Arkansas collecting, or under-[fol. 55] taking to collect poll-taxes from any of those people?

A. No, sir.

Q. Do you own some land down there yourself?

A. Yes, sir.

Q. It is assessed for land taxes?

A. Yes, sir.

Q. By what state?

A. Tennessee.

Q. Where do you pay your taxes?

A. Dyersburg.

Q. Has the State of Arkansas ever attempted to assess on you ar^v taxes down there?

A. No, sir.

Q. Have you ever known of any residents of that island undertaking to vote in Arkansas?

A. No, sir.

Cross-examination.

By Mr. Taylor:

Q. You are speaking from your own personal standpoint?

A. Yes, sir.

Q. You are not attempting to tell this Court what the other people over there did; are you?

A. Everybody over there voted at Chic, in Tennessee, who lived there.

Q. Do you personally know that no people over there [fol. 56] voted in Arkansas?

A. Not that I know of.

Q. You never knew of any?

A. No, sir.

Q. They could have, and you not known it?

A. They could have and I not known it.

Q. They could have paid taxes elsewhere, and you not known it?

A. They could have; yes, sir.

Q. How big a place is Chic?

A. Just one store.

Q. Just one store?

A. Yes, sir.

Q. Is the Chic store located on the concrete road?

A. Yes, sir.

Q. Is it located on the dirt road?

A. On the concrete road.

Q. How far is the Chic store located from the dirt road, and in what direction?

A. Well, the Chic store is about a quarter—the best I could say—north of the dirt road, that turns to go to my house.

Q. You say the Chic store is about a quarter north of the dirt road that turns to go to your house?

A. Yes, sir.

[fol. 57] Q. Now, indicate on the Map—Mr. Brayton's map—which is before you there, the dirt road that you are referring to?

A. Right here.

Q. Is that the dirt road marked in red pencil there, "Dirt Road"?

A. Yes, sir.

Q. That is the road you are referring to?

A. Yes, sir.

By Mr. Tipton:

Q. Is the Chic store, at the present time, where it used to be, or not?

A. No, sir.

Q. Where was it when Mr. Michell rented it?

A. You mean where was his house; the Chic store?

Q. Yes.

A. It was south of this dirt road, now, about 200 or 250 yards south of that dirt road—this old L. M. Michell's home place.

Q. How long has the present store been up there where it is now?

A. Well, I wouldn't be positive, but I don't think it has been up there over ten or twelve years; just about twelve years, I imagine.

Mr. Tipton: That is all.

[fol. 58] By Mr. Taylor:

Q. The store belongs to a private individual?

A. The building belongs to Joe Peat; and, a fellow by the name of Virgil Curtis runs it.

Q. Does Joe Peat own land in that vicinity where the store was prior to its present location?

A. Where the store is now.

Q. Did he own the land where it was before the store was moved?

A. No, sir.

Q. Who owned the land where the store was before it was moved?

A. I understand L. M. Michell.

Q. Did the store belong to Mr. Michell, or did it belong to Peat?

A. Belonged to Mr. Michell.

Q. The store constitutes the town; is that right?

A. I don't understand what you mean.

Q. In other words, when the store moved, the town moved?

A. I suppose so; yes, sir.

By Mr. Tipton:

Q. Just one other question, there: How old were you when the Post Office was established there?

A. I don't recollect when it was established there.

Q. Where was the post-office maintained there when you first remember it?

[fol. 59] A. In the L. M. Michell store building.

Q. And that was south of the other one you spoke of?

A. Yes, sir; about 200, or 250 yards south, there.

Q. Was the Post Office established when the store was north of the road?

A. No; south.

Q. It wasn't established until it moved south?

A. It moved from south of the road.

The Master: The post office was established when it was south of the road?

The Witness: Yes, sir.

Q. And then it was moved?

A. It wasn't moved—just rotted down, and then Peat put up a little store north of the road, and then they put up the post-office up there.

Mr. Taylor: Then they put the post-office up there north of the road?

The Witness: Yes, sir. It wasn't long until they got the post-office moved.

Mr. Tipton: That is all.

The Master: Gentlemen, we will adjourn, now, for lunch.

Witness excused.

Thereupon a recess was taken for lunch, and the hearing was resumed at 1:25 P. M., as follows:

[fol. 60] MR. L. O. BRAYTON, was recalled to the witness stand for further cross-examination, and testified as follows:

Cross-examination resumed.

By Mr. Taylor:

Q. Mr. Brayton, just to be sure I haven't misunderstood you, is it correct that the northwest boundary of the McLemore & Terrell entry, or grant, that is described here, was located at the point just marked here "Y"? Is that correct?

A. Yes, sir.

Q. Then this broken, dotted line that you have marked here is the western boundary?

A. Yes, sir.

Q. I wanted to be sure in my mind.

Q. Do you have the map of the survey that is of record in this James Manny entry here?

A. You mean do I have it with me?

Q. Yes.

A. No, sir.

Q. There is one on record, with the survey; isn't there?

A. I think so.

Q. Would you produce a certified copy of that map as a part of your testimony?

A. Yes, sir.

[fol. 61] Gen. Tipton: Do you want it authenticated under the Act of Congress?

Mr. Taylor: No, sir. By the custodian is sufficient.

Gen. Tipton: That is registered in Tennessee?

Mr. Taylor: Yes, sir.

By Mr. Taylor:

Q. Do you have a copy of the Isaac Sampson entry, that you left off of your map, that is of record, the same as the Manny map I just mentioned?

A. I have it in the office; yes, sir.

Q. Is that a correct photostat of it (handing witness a paper)?

A. Yes, sir; that looks like it.

Q. Will you introduce that as a part of your testimony?

A. I think so. Will it be necessary to check it with the original map?

The Master: Who made it?

The Witness: Those were made, I think, by survey.

The Master: At the time of the grant?

The Witness: Before the grants.

The Master: These are the field notes, as shown by some of the exhibits. They will be introduced here.

The Witness: That is the way I understand it.

Mr. Taylor: That sketch there, is it, or not, copied on the record book, where the survey is recorded?

A. In Dyer County?

[fol. 62] Q. Yes.

A. Yes, sir; I think it is.

Mr. Taylor: Since you expressed your willingness to offer this, let it be marked "Exhibit 1, to the cross-examination of Mr. Brayton.

The Witness: All right.

(The paper was accordingly marked Exhibit 1, to the cross-examination of Mr. L. O. Brayton, and will be found among the exhibits hereto.)

By Mr. Taylor:

Q. You have stated that you were familiar with that Isaac Sampson survey map. I will ask you if that is not a copy of the Isaac Sampson survey (handing witness a paper)?

A. Yes, sir.

Mr. Taylor: I will say this. We will permit a comparison of that with the record if you wish. Mark that "Exhibit B" to his cross-examination.

The copy of the survey was accordingly marked "Exhibit 2, to the cross-examination of L. O. Brayton", and will be found among the exhibits hereto.

Q. Will you agree to produce a certified copy of the map, in connection with the James Manne's Survey; and, when you do that mark it "Exhibit No. 3 to your cross-examination?"

[fol. 63] A. I will do so.

The certified copy of the map, when furnished is to be marked "Exhibit No. 3 to the cross-examination of L. O. Brayton," and will be found among the exhibits hereto.

Mr. Taylor: I think that is all.

Redirect examination.

By Mr. Tipton:

Q. Mr. Brayton, did I understand you to say you think you have a copy of this map with this entry on it—Isaac Sampson place?

A. Yes, sir.

Q. Will you please file that as Exhibit 4?

A. A copy of it, I will; yes, sir.

The copy to be so furnished will be marked "Exhibit 4 to L. O. Brayton," and will be found among the exhibits hereto.

Q. And in that connection there, will you please identify the Isaac Sampson 1030 acre entry by such heavy line that there will be no mistaking of it there?

A. Yes, sir.

Q. As I understand it, he has a copy of this map that has it on there.

A. I can superimpose it on a map just like this.

[fol. 64] Q. Have you another copy, just like this map?

A. Yes, sir.

Q. Will you please superimpose it and file it as Exhibit 1 to your Re-Direct Examination, and mark it by such heavy line as there will be no question about knowing what it is?

A. Yes; I will do so.

The paper to be furnished will be marked "Ex. No. 1 to Re-Dr. Ex. of L. O. Brayton", and will be found among the exhibits hereto.

Witness excused.

MR. BYRON MORSE, the next witness, on behalf of the defendant, State of Tennessee, being first duly sworn, testified as follows:

Direct examination.

By Mr. Buck:

Q. Where do you live, Mr. Morse?

A. Blytheville, Ark.

Q. How long have you lived at Blytheville?

A. Twenty-four years.

Q. What business are you engaged in?

A. Abstracts and titles.

[fol. 65] Q. Do you have a set of abstract books?

A. Yes, sir.

Q. Covering the land titles in what territory?

A. In the Chickasaw Districts. Our records cover the old records at Osceola, back where they started. We haven't kept up the records in the Osceola District since 1912.

Q. Mississippi County is divided into two judicial districts?

A. Two; Osceola and Chickasawba District. The Osceola District is the southern end of the county.

Q. In which district is Township 15 North, Range 13 east?

A. In the Northern, or Chickasawba District.

Q. The one in which Blytheville is located?

A. Yes, sir.

Q. Has your work as an abstracter familiarized you with the records of land titles, trust-deed records, and tax records of Mississippi County?

A. Yes, sir.

Q. Do you keep on file, as a part of your records, the United States Government surveys of lands?

A. I keep photostatic copies of them I get from the General Land Office.

Q. Do you make an effort to keep those complete, as a matter of record?

A. Yes, sir; keep up with all the surveys that the General Land Office puts out.

[fol. 66] Q. In this case, there was introduced as Arkansas' Ex. No. 2, the original Government Survey of Township 15 North, Range 13 East. Are you familiar with the Government Plat of the original survey of that area?

A. Yes, sir.

Q. Have you a copy of it?

A. I have a copy of it in my office.

Q. State what is the most easterly point in the State of Arkansas, as surveyed and sectionalized by the United States Government?

A. According to the maps, section twelve, Township 1513, is the most easterly point.

Q. I show you Arkansas' Exhibit No. 2, and ask you to state if there is any lands assessed for taxes, or if there have been in years past, in Arkansas, lying east, or northeast of the right bank of the Mississippi River, as it is surveyed and sectionalized and shown on this plat here?

A. In 1513? No. I have been through the tax records from beginning to end, and in every township, I guess, there is; and, none of these tax records have ever contained anything east of 1513. In other words, it would be 1514, if it were in this big township; it would have to be 1514—would be the next township. There is, really, no such thing.

Q. Are there any records in Mississippi County, Ark., showing deeds, deeds of trust, or other conveyances of lands east of Sec. 12, Township 1513, as shown from the plat?

[fol. 67] A. No.

Mr. Buck: I think that is all.

Witness excused.

Dr. L. C. GLENN, the next witness introduced on behalf of the State of Tennessee, the defendant herein, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Tipton:

Q. This is Dr. L. C. Glenn?

A. It is.

Q. Doctor, what is your age?

A. Sixty-seven.

Q. Where do you live?

A. Nashville, Tennessee.

[fol. 68] Q. What position do you hold there?

A. I have the Chair of Geology, in the Vanderbilt University; also, Chairman of the Science Division—

Mr. Taylor: If the Court please, we will be glad to admit Dr. Glenn's qualifications as an expert geologist, geographer and what-not.

Mr. Tipton: That is nice. I know you are familiar with his qualifications, but the Court is not.

Q. Where were you graduated?

A. My undergraduate work was at the University of South Carolina, where I took an A. B. degree in '91; I spent three years in Johns-Hopkins, from 1896 to 1899, taking a Doctor's Degree there, in Geology.

Q. At the present time, are you consultant geologist for any Geological Surveys of Governmental Division?

A. At present, I am consultant geologist for the TVA.

Q. By that you mean the Tennessee Valley Authority?

A. Yes, sir; I do. I was a member of the United States Geological Survey for about ten years, working on the Tennessee, Kentucky, North Carolina, Maryland and New York Surveys at other periods.

Q. Doctor, have you ever done any commercial geological work, as well?

A. Yes, sir; I have, for a number of years.

Q. To what extent, Doctor, has your work caused you to observe the Mississippi River, and its meanders and [fol. 69] sinuosities?

A. When I was a member of the United States Survey, from 1904 to 1908, there were two pieces of work assigned me that caused me to become familiar with the Mississippi

river across the western end of Kentucky and Tennessee; and, in private work, and work for the United States Department of Justice since then, I have become familiar with most of the river down pretty well to its mouth. I can mention, specifically, from an indexed chart here, some of the areas that, in that work, or in some of my private work, I became familiar with.

In the Government work, I was familiar with the stretch from Cairo down to below Memphis, which is this stretch on the indexed chart, of the river.

Q. In that connection, did you have any connection with the Bird's Point Fuseplug ?^{ever}?

A. Yes, sir; a few years ago I examined and became familiar with the stretch of the River between Cairo and the end of the Bird's Point Fuseplug Section, at New Madrid, Mo. I previously became familiar with the River at Columbus, at Chalk Bluffs, below there; and, at Hickman. In that work the same reaches were covered from the west side of the River, then at Caruthersville, Mo. and at Wrights Point.

Q. How far is Wrights Point from the land in controversy in this litigation?

A. Immediately across the River on the west.

[fol. 70] Q. What is the nature of the terrain on this side of the River; the same, or different?

A. Very much the same; alluvial plain.

Q. Go ahead.

A. And Wrights Point and very closely connected with it was Musgraves Bar; Young's Lake,—and Tyronza, a bit of the river had had the same problem; Island No. 40, or Beef Island, and below Memphis. I am familiar with Whiskey Island, and Walnut Bend; and, down at Helena I know the River from examining it twice there; down at Friars Point, Horse Shoe Bend area; I know just west of that, Millers Point, down to Island 63. Then I know the River and have studied it at Greenville and at Vicksburg, at Baton Rouge; and, in the vicinity of New Orleans.

Q. Doctor, have you ever testified in any litigation involving the Mississippi River and its ideo-syncreties before?

A. Yes; I have had perhaps a dozen suits in which I have been involved, as a witness—not as a litigant.

Q. Would you mind, for the record, putting in some of those?

A. In 1917, one on the Musgraves Bar—I don't recall the caption of the suit, or the style. The same year, or the year following, another one on Wrights Point, which is adjacent to Musgraves, then Golden Lake and Young's Lake, the style [fols. 71-86] of which was United States vs. J. R. Rhodes, et al., in 1920; then, from 1920 to '21 I was engaged for the Department of Justice of the United States, and the State of Oklahoma together, in a suit between Texas, Oklahoma and the United States, involving the boundary between Oklahoma and Texas, along Red River.

Q. Was that the litigation that was commonly known as the Red River Litigation?

A. That was commonly known as the Red River Litigation; and, the problems were similar to the Mississippi River problems.

Then, on the Mississippi River, itself, I was in a suit on Miller's Point, below Helena, entitled Howe et al. v. Rust Land & Lumber Co., then one at Horse Shoe Bend, close to Miller's Bend, entitled Arkansas vs. Rust Land & Lumber Company, in 1933; then, the Walnut bend suit, the title of which was "St. Francis Levee Board vs. Windman, in 1931; then a suit on Island No. 40, or Beef Island, entitled "Clement v. Regal, in 1933; then a suit involving this Fuse-plug Flood Area already alluded to, entitled H. A. Matthews Tr., vs. United States, in 1934.

[fols. 87-131] Q. Doctor, will you file that map as "Tenn. Ex. No. 25"?

A. I do so.

[fols. 132-152] Q. Please locate and mark on Ex. 25 the old mouth of the Obion River by appropriate letter, and mark it in the margin of the map.

A. The old mouth of the Obion River on Ex. 25, is just south of the letter "N", written by me in blue.

[fol. 153] Q. Dr. Glenn, please examine Tenn. Ex. No. 25—that is the Quadrangle—first I will ask you, can you determine, and if so indicate by mark, on that exhibit before you, Tenn. No. 25, where the thalweg in the Mississippi River was, immediately prior to the Cut-off of 1821?

A. There is no indication on the Map; but, according to the usual method, in River scour, the depth, the thalweg must have been close north of the cut-off; and in the concave bend of the land, lay close to the right-hand bank.

Q. The right-hand bank that you refer to there is—or rather would have been the north side of Moss Island proper?

[fol. 154] A. Would have been the north side of the west end, or neck of it, proper. When, after making that curve, which threw the channel to the right-hand side, the River straightened out, and started to reverse itself and go around what we know as a right-hand curve, it then being a lefthand curve, The thalweg made a crossing, and the River depth became shallow, bars forming there, one of which resulted in the growth of Island 22. The thalweg then crosses the river in that stretch and goes to the left-hand side, which it followed all the way around the rest of Moss Island until it came back close to, but somewhat east of, the neck, when the curve reverses, the thalweg crossed the river again and came over to the right-hand bank, and followed the right-hand bank around the long reach of the curvature that made in against the Arkansas shore.

Q. Now, in that explanation, where would the thalweg be—where would the thalweg have been with reference to Tiger Tail? Close into the Tenn. Shore, or—

A. (Interrupting) Yes, sir. It ought to have been close to the Tennessee shore along there.

Q. Would you mind indicating that with a broken line—say in blue? I don't believe you have any blues on there. That is, your opinion where you think it would have been—approximately where you think it was?

[fol. 155] A. Very good.

(Witness does as requested.)

Gen. Tipton: May I make a suggestion, there—that that line be designated X, Y and Z?

The Witness: I have designated it in blue thus; by the letters X, Y and Z, and superimposed with a broken blue line and encircled Moss Island.

Q. Continuing your examination of Ex. 25, state whether or not part of the original survey of the State of Tennessee, according to the 1837 plat is re-formed to the east of the present channel of the Mississippi River?

A. East of the present channel of the Mississippi River, as designated, or depicted on Tenn. Exhibit 25. There is formed a towhead—in fact more than one, that are in the position that was, in 1837, occupied by a portion of Arkansas.

Q. The letter H, in blue, on the exhibit you are referring to, Tenn. No. 25, is a portion of that original area; isn't it?

A. Oh, no; that is vastly younger than that original area.

Q. Within the bounds of the original survey?

A. It exists, today, within the bounds of the Original [fols. 156-258] Survey, but is not a part of the original area.

* * * * *

[fol. 259] Mr. FRANKLIN W. LATTA, the next witness, introduced on behalf of the State of Tennessee, the defendant herein, being first sworn by the Special Master to tell the truth, the whole truth and nothing but the truth, testified as follows:

Direct examination.

By Mr. Tipton:

Q. This is Mr. Franklin W. Latta?

A. Latta; yes, sir.

Q. How old are you?

A. Forty-one.

Q. Where is your residence?

A. Dyersburg, Tenn.

Q. What County?

A. Dyer County.

Q. What is your profession?

A. Attorney at Law.

Q. In connection with your legal duties, have you had much, or little, occasion to abstract lands in Dyer County?

A. I have had eighteen years' experience.

[fol. 260] Q. Have you recently undertaken to abstract the lands involved in this litigation?

A. I have run the title on some of the lands in this litigation. I haven't made a complete abstract—run the chain of title.

Q. I show you here a map, Tenn. Ex. 14, purporting to show the territory in controversy, and ask you if you have seen that map before?

A. Yes, sir; I have.

Q. Are you familiar with the various locations thereon?

A. I am.

Q. Mr. Latta, there has been introduced here as Tenn. Ex. 6, a certified copy of an entry and likewise a certified copy of a grant, Tenn. Ex. 11, in the name of Charles C. Moss, three thousand acres. Are you familiar with the location of that land on that map?

A. I am; yes, sir.

Q. You are now looking at Tenn. Ex. 14.

A. Yes, sir.

Q. Please designate the land on this map, by reference to any letters, if there be such on it?

A. All right, sir. Beginning at the northwest corner of the grant is the letter B-1; the grant follows the meanders of the Obion River to D; takes a westwardly course to C; a northern course back to B-1. That is what is known as the [fol. 261] C. C. Moss entry and survey of the State of Tennessee.

Q. I hand you here what purports to be a certified copy of the assessment rolls of Dyer County, Tenn., covering that tract of land, and ask you to examine it, and state whether or not that land described in that assessment roll there is the same land that you mentioned as the Moss Entry?

A. Yes; as best I can decipher from the records in Dyer County. I have examined the tax-rolls and also the abstract, which I have with me.

Gen. Tipton: We want to make this Tenn. Ex. 40, if the Court please.

The paper so introduced in evidence was accordingly marked "Tenn. Ex. No. 40", and will be found among the exhibits hereto.

Q. Now, for the year 1873 I observe a description on that—on Cut-Off Island, known as the Armstrong tract. Please state whether or not that conveys any more definitely to your mind as to the identity of the land?

A. It does.

Q. What?

A. This Moss entry covers the southwest corner of what was known once as the Martin Armstrong grant, No. 96, which was the North Carolina Grant.

[fol. 262] Q. Some mention was made yesterday, of an overlap between the Martin Armstrong Grant and the C. C. Moss entry. Will you please examine this, and state where the overlap lies, if you know?

A. This overlap lies in the entire Moss Grant, beginning as I described it before, at B-1, and goes down the Obion River to B; thence west to C; thence back to B-1, an overlap of approximately three thousand acres.

Q. I want to introduce in evidence as Tenn. Ex. 41 a certified copy of the records and the tax-books of Dyer County, showing the tax-record.

The certified copies were accordingly marked "Tenn. Ex. No. 41", and will be found among the exhibits hereto.

Q. I will ask you to examine Tenn. Ex. 41, which purports to show certain tax-payments made in the State of Tennessee, and ask you whether or not the land therein mentioned, on which taxes are shown to have been paid, by this certified record, all constitute the same land as the Moss entries, of which you have previously spoken?

A. It does.

Q. Mr. Latta, as such abstracter, did you become familiar with entry 734 in the name of Jno. C. McLemore and Terrell, [fol. 263] of 1436 acres?

A. Yes, sir.

Q. Without asking you to delineate it by reference to letters, will you please examine Tenn. Ex. 14, and state whether or not the location and position of this entry, 734 is correctly stated on that map?

A. It is.

Q. I hand you herewith a certified copy of a tax sheet, made by Zacheas B. Phillips, Sheriff and Collector of public taxes for the County of Dyer and State of Tennessee, purporting to have been executed on the 22nd day of July, 1848, showing the sale of certain lands to one Joseph Michell; and, I will ask you to examine the description of those tracts, and state whether or not the lands therein purported to be conveyed were a portion of the McLemore & Terrell entry?

A. (After examining paper.) Yes, sir; it is—covers part of this ground in here, not all.

Gen. Tipton: We want to file this as Tenn. Ex. No. 42, if the Court please.

Mr. Taylor: That is part of the original McLemore & Terrell Entry, as shown on that map?

Gen. Tipton: Yes.

The paper was accordingly marked "Tenn. Ex. No. 42", [fol. 264] and will be found among the exhibits hereto.

Q. I hand you what purports to be a certified copy of a deed from Thomas H. Benton, Collector of Public Taxes, of Dyer County, Tenn., to J. W. Henry, dated July 22, 1874, and

ask you to examine that, and please state whether or not the lands therein purporting to be conveyed, constitute a part of the McLemore-Terrell Entry, or not?

A. It does—approximately 326 acres of that.

Gen. Tipton: If your Honor please, we want to make this Tenn. Ex. 43.

The paper was accordingly marked "Tenn. Ex. 43", and will be found among the exhibits hereto.

Q. Mr. Latta, I hand you what purports to be a certified copy of certain assessments, on certain lands in Civil District No. 11, Dyer County, Tenn., and ask you to examine that and please state—or, rather, point out on Tenn. Ex. No. 14, where those lands are located; if you can?

A. All right. Reading from the year 1870, the land was assessed as "Heirs of Isaac Brackin. 3 tracts aggregating 456 acres. No description. Comprising the Phillips & Doyle Entry—the Branch-Totten (shown on Tenn. Ex. 14 as AOW—as John Branch and A. O. W. Tatum). They [fol. 265] were the three tracts of land that belonged to the Heirs of Isaac Brackin; the M. V. Dickson 335 acres, marked "No description", lies immediately south of what is designated here as the Martin Armstrong Grant.

Q. Examine Tenn. Ex. No. 43, tax-deed from Thomas H. Benton to J. W. Henry, and please ascertain whether or not that covers the same tract of land as referred to—as assessed to M. V. Dickson?

A. It does.

Q. All right, now. Proceed with your answer.

A. (Continuing.) The land designated as Parr & Sugg, 607 acres, marked "No description" is the south part of the McLemore & Terrell Entry No. 734.

Q. Isaac Sampson was assessed three tracts, 1000 acres, 725 acres and 2600 acres. Now, where is the thousand acre tract located?

A. The thousand acre tract is located and designated on this map as Entry No. 556, in the name of Isaac Sampson.

Q. Is that the entry on Tenn. Ex. 14, as designated by the figure 9 in blue pencil, just above the legend?

A. It is.

Q. Mr. Latta, have you made an examination of the tax-records of Dyer County, with reference to the earliest tax records?

[fol. 266] A. Yes, sir; I have.

Q. What is the earliest date on which any tax-book, showing payment of taxes, can be found?

A. The earliest date is 1870, which is the assessment roll; and the earliest date of payment of taxes, is 1874. We have no tax records back of those two dates.

Q. Does tradition give any reason?

A. Yes, sir; the courthouse was burned during the Civil War, and for some time after that we had no particular place for keeping records. We didn't have a courthouse until about 1870.

Gen. Tipton: I want to offer this as Exhibit 44—the document about which the witness just testified, as Tenn. Ex. No. 44.

The paper was accordingly marked, "Tenn. Ex. No. 44," and will be found among the exhibits hereto.

Gen Tipton: I want to offer this resume of assessments and tax payments, on certain lands, as Tennessee Ex. 45.

The paper was accordingly marked "Tenn. Ex. 45," and will be found among the exhibits hereto.

Q. Mr. Latta, please state whether or not the assessment roll and the tax-books are in the same document, or whether they are separate documents?

[fol. 267] A. Separate documents—the tax-roll is made out by the county court clerk, and certified to the Trustee, and the Trustee makes a copy from this, on which he notes payment of taxes.

Gen Tipton: I want to introduce here a certified copy of the Entry on the Minutes of the County Court of Dyersburg, Tenn., showing the Commissioning and Qualification of M. N. Taylor, whom the witness Michell, yesterday, spoke about as being elected Justice of the Peace, while living on Moss Island.

The paper was accordingly marked "Tenn. Ex. 46," and will be found among the exhibits hereto.

Q. Mr. Latta, are you familiar with the customary, and proper form that is used, in the courts of Tennessee, attending the qualification of persons elected Justice of the Peace?

A. Yes, sir.

Q. Have you examined this certified copy of Tenn. Ex. No. 46?

A. Yes, sir.

Q. Is that in proper form?

A. Yes, sir.

Q. I want to make that Tenn. Ex. 46.

A. All right.

[fol. 268] The paper was accordingly marked.

Q. I wish you would state whether or not, in your abstracting of records of Dyer County, or elsewhere, you have ever been able to encounter any evidence of any character, whatever, that the lands embraced in Tenn. Ex. 14, have been surveyed, or sectionalized under the authority of the United States Government?

A. They have not. I have never been able to find it. I have made inquiries from the State Department at Nashville, and also in Washington.

Q. Are there any references of record in Dyer County, there, even remotely tending to show that the lands in question have ever been sectionalized by the United States Government—I mean surveyed by the United States Government?

A. No, sir.

Q. Are there any descriptions of record that you have encountered in your 18 years of abstracting that refer to any of the lands in question here or elsewhere in Dyer County by Township, Range and Section numbers?

A. No, sir. The only reference is to 13th Surveyors District, which is a reference arbitrarily put down by Congress.

The Master: What does the 13th Surveying District cover?

[fol. 269] A. Covers the Northeast Corner of our State.

Q. Tennessee?

A. Yes, sir. Beginning at a point thirty-five miles west of the Tennessee River, running along the north line of the boundary line of our State down to the Mississippi River, to a point which will be 55 miles north of the south boundary line of the State, and runs east—

The Master: It is all in Tennessee?

A. Yes, sir.

Q. Have you ever made inquiry in Arkansas to see if you could find this land covered by Arkansas Survey?

A. No, sir.

Q. Mr. Latta, are you familiar with the litigation which ensued in the Circuit Court of Dyer County, Tenn., about the year 1867, between Charles C. Moss, and one Geo. W. Gibbs, which is reported in the 57th Tenn., under the style of Moss v. Gibbs?

A. Yes, sir; I have read that record several times.

Q. Is the original file of papers in that case still in existence in Dyersburg?

A. Yes, sir; it is—in existence in the Chancery Court of Dyersburg, now.

Q. Where was the original case?

A. The original case was filed in the Circuit Court.

Q. Is there any reason why that file of papers, at present [fol. 270] is in Chancery, rather than Circuit Court?

A. Yes; there was a later case filed, styled Gibbs v. Moss, and by stipulation of counsel in that case all the original depositions of the Circuit Court case were made a record of the Chancery Court case.

Q. Have you that stipulation with you, certified by the Clerk and Master?

A. Yes, sir.

Q. Will you produce it, please?

A. Yes.

Q. Is that a part of the original court file there, which cannot be removed permanently without permission of the court?

A. Yes, sir; I had to borrow it from the Clerk and Master, in order to bring it down here today.

Q. Is that the original document, to which you have reference?

A. Yes, sir.

Gen. Tipton: Now, I desire to make a copy of this—I have that record—I desire to mark it Tenn. Ex. 47, and I want to offer that stipulation of counsel in evidence.

Q. Mr. Latta, did you find in that original file of papers the deposition of Isaac Sampson and Isaac Brackin, and Joseph Michell?

A. Yes, sir.

[fol. 271] Q. Are these depositions—any two of them consolidated?

A. Two of them are. The deposition of Isaac Brackin and the deposition of Joseph Michell are consolidated.

Q. Is that the original deposition, or which one have you here?

A. The deposition of Joseph Michell and Isaac Brakin.

Q. Are those the original depositions, that you hold in your hand, there?

A. Yes, sir.

Q. Where did you find them?

A. I found them in the chancery court case of Moss v. Gibbs.

Q. In the office of the Clerk and Master?

A. Yes, sir.

Q. Are they subject to the same exception—can't be permanently removed?

A. Yes, sir.

Gen. Tipton: We wish to offer them in evidence, and we have copies.

Mr. Taylor: I object to the offering of the deposition of the—taken by the witness, not before this court. And, I object to any deposition, or any statements of any witnesses taken in any court, with reference to this Moss v. Gibbs, because those witnesses were not subject to cross-examination by counsel in this case.

[fol. 272] By Gen. Tipton (resuming):

Q. Mr. Latta, when do those depositions purport to have been taken?

A. Those depositions were taken on the 28th day of November, 1867, at the home of Joseph Michell.

Q. Who were the two gentlemen; Michell and who is the other?

A. Isaac Brakin.

Q. I will ask you to state whether or not, by reputation, both those gentlemen are now living, or dead?

A. Dead.

Q. How long have they been dead?

A. I don't know, off-hand, when Mr. Brakin—I would say, off hand, more than forty years.

Q. I have another deposition in the same category I want to make proof of.

The Master: I think the papers should be filed. The rights of the State of Arkansas will be properly reserved.

Gen. Tipton: It is perfectly agreeable with me—that the

Master can reserve his ruling on the admission until the hearing, and can—the question can be raised then.

Mr. Taylor: As I understand, the Master has been very lenient with us in introducing evidence, but I don't want to be asleep here.

[fol. 273] The Master: You want to protect your rights.

Mr. Taylor: Yes.

The Master: Your rights are fully preserved.

By Gen. Tipton (resuming):

Q. Now, Mr. Latta, have you, likewise, the original of the deposition of Isaac Sampson?

A. Yes, sir.

Q. Where did you find that deposition?

A. In the same case.

Q. Is it likewise in the custody of the Clerk and Master?

A. Yes, sir.

Q. I wish you would state whether or not Isaac Sampson is now living, or dead?

A. He is dead.

Q. We want to offer that, if your Honor please.

The Master: You are offering the original?

Gen. Tipton: I am not offering the originals; I am presenting the originals for inspection of the Master.

The Master: I think everything is certified copies.

Gen. Tipton: I am not offering certified copies; they are not certified; they can be compared here, if opposing counsel wants to compare them, they can get them. I am offering these copies as Tenn. Exhibits 47 and 48. I mark the deposition of Michell and Brackin as "Tenn. Ex. 47."

The Master: As I understand, Counsel for Arkansas do not insist on copies being certified, if they are given an opportunity to check them?

Mr. Taylor: If it develops that any mistakes appear in the typewritten copy then the record can be corrected to conform?

Gen. Tipton: Yes.

Gen. Tipton: There is one further document—that original Bill of Exceptions in that case:

Q. Have you, also, the original records in the case of Moss v. Gibbs?

A. Yes, sir. That is against Gibbs, Thompson, et al.

Q. When does it appear to have been filed?

A. It was filed in the Circuit Court Oct. 8, 1869; it was filed in the Chancery Court case Nov. 28, 1894.

Q. Where did you find that?

A. I found this in a Chancery Court case, styled Gibbs vs. Moss.

Q. Is the Clerk and Master, under stipulation of counsel heretofore introduced, the proper custodian of that record?

A. Yes, sir.

[fol. 275] Q. We have a copy of that we want to introduce as Tenn. Ex. No. 49?

A. All right.

The paper was accordingly marked "Tenn. Ex. No. 49", and will be found among the exhibits hereto.

Gen. Tipton: Now; I would appreciate it if the Master would examine this, and dictate into the record a stipulation as to the appearance, etc.

The Master: The original depositions of Isaac Brackin, Joseph Michell, are on legal-cap paper, and written out in pen and ink—the writing is entirely clear—there are four sheets. On the bottom of each sheet is a cut, as if it had been retained in an envelope and the sheets had been cut when the envelope was opened.

The deposition of Isaac Sampson is on the same kind of paper, also with pen and ink—very legible, and physically intact. The Bill of Exceptions is on paper which is bound at the side instead of on the top, and the first sheet looks almost as if it might have been burned; there are two small jagged holes—the first sheet is cut in three places; and the second sheet has several jagged little holes in it; also, cut in two places—the 4th and 5th sheet are substantially intact. The 6th and 7th sheets have only a slight tear in them; [fol. 276] and, the 8th sheet is substantially intact. All of the depositions and the Bill of Exceptions bear the mark of having been written a considerable number of years ago. The Master is not qualified to pass upon the degree of age of these documents; but the dates, I should say, establish their age; and, there is nothing in their appearance that would belie the dates. On the contrary, I should think the documents are reasonably well preserved, from the dates which they bear.

By Gen. Tipton (resuming) :

Q. Mr. Latta, were you familiar with the location of the old store at Chic?

A. Yes, sir.

Q. Up until what time was that store operated?

A. About 1919, or 1920—about the time that Moss purchased that land.

Q. Where was the store located?

A. It was located on what is now the concrete road, in the northwest corner of the McLemore & Terrell Entry—of 1436 acres.

Q. Was it substantially at the point designated "Y"? Was it located at substantially the place marked "Store" on Tenn. Ex. 14?

A. Yes, sir.

The Master: Under the word "Chic"?

[fol. 277] A. Yes, sir.

By Gen. Tipton (resuming) :

Q. Was that the original location of the metropolis of Chic, or not?

A. It was a very old building in 1920.

Q. Now, reference has been made in the testimony to a concrete highway running in that community out there. Is there a concrete highway marked on Tenn. Ex. 14?

A. There is.

Q. I wish you would state its location, with reference to its designation on that map—whether that map looks substantially as it lays on the ground?

A. Yes; it does.

Q. Mr. Latta, what political subdivision built that highway?

A. Dyer County, Tenn.

Q. Now, Mr. Latta, do you know who is in possession of the tract, at the present time, known as the Moss Entry tract, there?

A. B. L. Hendrix.

Q. Have you made an examination of the chain of title under which he holds?

A. Yes, sir; I have an abstract prepared by Mr. R. E. Rice.

Q. Without formally introducing the abstract, since it is [fol. 278] the property of another person, but with it here

available for inspection and examination by opposing counsel, please state whether or not Mr. Hendrix arranged his title from the State of Tennessee, or from the State of Arkansas?

A. He arranged his title from the State of Tennessee.

Q. Mr. Latta, who owns the lands on Moss Island south of the Moss Entry, as shown by Tenn. Ex. 14?

A. N. A. Yancy owns the greater portion of the McLemore & Terrell Entry and the northwest part of the McLemore & Terrell entry is owned by the Chic Farm Co.

Q. Does Mr. Yancy own any additional land beside the greater portion of the McLemore & Terrell Entry?

A. He does. He owns the property of the Isaac Sampson entry No. 556, of 1,000 acres.

Q. Have you recently examined the chain of title through which he claims?

A. Yes, sir.

Q. Please state which State he arranged title from; Tennessee, or Arkansas?

A. Tennessee.

Q. Now, Mr. Latta, I observe, on Tenn. Ex. No. 14, what is designated thereon as a dirt road. Do you know who is in possession of the lands which lie north and west of that dirt road?

A. I do.

[fol. 279] Q. Who is that?

A. Chic Farm Company.

Q. What entries on the map do their possessions cover?

A. W. B. Jones entry, No. —, 600 acres, dated Dec. 20, 1838; and, W. B. Jones entry No. —, 456 acres, Nov. 15, 1838; and, what is left of an Isaac Sampson grant of a thousand and thirty acres.

Q. Is that the Latta tract to which you referred, on the space designated on Tenn. Ex. 14 by the letter "G" in blue letter?

A. It is.

Q. Have you recently made examination of the chain of title through which they claim?

A. I have.

Q. From which State did they arrange title?

A. Tennessee.

Gen. Tipton: You may take the witness.

By the Master:

Q. How many acres are there, approximately, in Moss Island?

A. I would guess 7,000 acres, including the original island, and what is the old river bed.

Q. Is it, as has been testified to, considered a part of Dyer County, Tennessee?

A. Yes, sir.

[fol. 280] Q. Is it all in Dyer?

A. In the Eleventh Civil District of Dyer County, Tenn.; Dyer County is divided into 20 civil districts.

Q. And the 11th district is not limited to Moss Island?

A. No, sir; it embraces considerable other land north of Moss Island.

Q. Is this land in cultivation, on this island?

A. A large part of it is in cultivation.

Q. In what products, or crops?

A. Cotton and corn.

Q. Has that been true all your lifetime?

A. Yes, sir; this land here has been cleared all my lifetime. Since I have been going down there—I expect the first time I went down there I was probably ten or eleven years old. I don't remember the exact date. I have a recollection of going there with my father.

Gen. Tipton: That is all.

Mr. Taylor: No questions.

Gen. Tipton: Now I want to introduce as "Tenn. Ex. No. 50" the Opinion of the Supreme Court in the case of Moss v. Gibbs.

The paper was accordingly marked "Tenn. Ex. No. 50", and will be found among the exhibits hereto.

[fol. 281] Gen. Tipton: I want also to do this: I want to have the record show—and I have the original volume here,—that this volume was entered in the Library of Congress in the year 1878.

I want also to introduce a copy of an Opinion in the case of Laxon v. State, reported in 126 Tenn., at "Tenn. Ex. 51".

The paper was accordingly marked "Tenn. Ex. 51" and will be found among the exhibits hereto.

Gen. Tipton: I want, also, if the court please, to introduce here a certified copy—certified copies of a letter from the Surveyor of Public Lands, Little Rock, Ark. dated Jan. 9, 1848; and, certified copy of a letter from the General Land Office to him, as exhibits "Tenn. 52" and "Tenn. 53" respectively. They are authenticated by the Commissioner.

One other thing, if the Court please. I wish to reserve the right to introduce if, as and when I get a certificate from the General Land Office to the effect that their records do not show any surveys by the United States of any lands in Tennessee, Dyer County, Township 15 north, Range 14 East."

If I get a certificate from the General Land Office I want [fols. 282-284] to reserve the right to introduce it, and I will send Mr. Taylor a copy.

STIPULATION

In this cause it is hereby stipulated between counsel for the State of Arkansas, plaintiff, and counsel for the State of Tennessee, defendant, that upon the hearing of this case, either before the Master, or before the Supreme Court of the United States upon exceptions to his report, either party may refer to and rely upon any statute of either the States of Tennessee or Arkansas without the necessity of formally pleading and proving such statute, it being the intention of the parties in this respect to confer upon the Court, insofar as consistent with its jurisdiction, the power to take judicial notice of all applicable statutes of the litigating states.

Witness excused.

[fols. 285-333] IN SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1939

No. 9, Original

STATE OF ARKANSAS, Plaintiff,

v.

STATE OF TENNESSEE, Defendant

Report of Evidence

Before Honorable Monte M. Lemann, Special Master
Federal Building, Memphis, Tennessee, June 14 and 15, 1938
The Testimony of Witnesses in Behalf of the State of
Arkansas

APPEARANCES

D. Fred Taylor, Jr., Esq., Harvey G. Combs, Esq., D. Fred Taylor, Esq., for the State of Arkansas.

Hon. Nat Tipton, Assistant Attorney General; C. M. Buck, Esq., for the State of Tennessee.

[fol. 334] O. W. GAUSS, a witness in behalf of the State of Arkansas, after first having been duly sworn by the Special Master to tell the truth the whole truth and nothing but the truth, testified as follows:

Direct examination.

By Mr. D. Fred Taylor, Jr.:

Q. Please state your age, name, and residence?

A. O. W. Gauss, aged 55, and live here in Memphis.

Q. What is your profession?

A. Surveyor—civil engineer.

Q. Are you admitted to practice in Arkansas?

A. I am.

Q. What schooling and training did you have preparatory to engaging in your profession?

A. The public High School of Kansas City, Missouri, two years at the Missouri School of Mines, but didn't graduate.

Q. How long have you been engaged in the profession of civil engineering?

A. Directly in private practice for twenty years.

Q. What was the nature of your employment or profession prior to that time?

A. I was a Special Agent for the Interior Department of the United States Government.

Q. What Department did you say?

[fol. 335] A. Interior.

Q. Interior?

A. General Land Office Bureau of the Interior Department.

Q. Please explain your duties in that Department?

A. I entered Government service in the Surveying Department, Surveyor General's Office in Salt Lake City for about a year, then I became a Special Agent whose duties embrace investigation of matters coming before the Department pertaining to the public lands, their administration and disposition.

Q. Did you handle any cases as Special Agent of the Government which involved rivers and waters?

A. Yes, sir.

Q. Please state them briefly?

A. While in the General Land Office, I had several investigations of that nature, too numerous for me to remember. Some of the more important cases, I presume, would be the Caddo Lake, Lee and the so-called Arkansas Sunk Lands cases in Northeast Arkansas, and after I retired—resigned from the General Land Office, I was employed by the United States Government in the State of Oklahoma in the boundary suit between Texas and Oklahoma on the Red River—the Red River of the South, that is. I was employed by the Department of Justice on some claims on the Cimarron River in Oklahoma and I think I was re-employed by the Department of Justice after I resigned for the Sunk Lands cases.

[fol. 336] Q. Have you not been employed by private individuals in work of this nature?

A. Yes, sir.

Q. Would you mind explaining some of the more important ones, if you want to call it that?

A. They have been so numerous. The St. Francis Levee Board in connection with lands around the River, by the State of Tennessee in connection with the avulsion known

as the Centennial Cut-off, in the case between Arkansas and Tennessee, the Three States Lumber Company in connection with the set-back levee and flooding in the New Madrid Floodway; Russ Lumber and Land Company in connection with the ox-bow cut-off at Friars, Mississippi; by the State of Arkansas in too numerous cases to mention to make surveys on the River.

Q. Were you ever employed by the St. Francis Levee Board?

A. Yes, I mentioned that.

Q. From the practical standpoint, what experience have you had with navigation on the Mississippi?

A. Since I have lived in this vicinity, I have handled timber on the River.

Q. How long?

A. About twenty years.

Q. Taken as a whole, your work has been principally with matters pertaining to rivers and waters and particularly on the Mississippi River?

[fol. 337] A. Since I have been here, it has been principally with the Mississippi River, but not so much so before I came out of the Government service.

Q. You have been out of the Government service the last twenty years?

A. Yes.

Q. Do you know where Wright's point is on the Mississippi River?

A. Yes, sir.

Q. Can you state where it is with reference to adjacent lands in that territory?

A. Well, it is south of Hickman Bend and North of Warfield Bend and lies westwardly of Moss Island.

Q. Are you acquainted with the lands known as Moss Island or Blue Grass Toe Head?

A. Yes, I am acquainted with that area.

[fol. 338] Q. I hand you a map designated Arkansas Exhibit No. 7. I wish you would state what this map proposes to be.

A. This map is a quadrangle map published by the United States Engineers, showing the topographic conditions covering an area of about twenty miles square and covering the area designated as Wright's Point, Moss Island, etc.

Q. And other things?

A. It also shows the Arkansas Section lines.
Q. Does it show a meander line of 1837 as indicated on Township 15 North, Range 13 East?

A. The quadrangle has superimposed upon it by a fine dotted line, the meander line as set out on the 1837 survey for Township 15 North, Range 13 East.

Q. Now, will you take a colored pencil and trace that line on this map?

(The witness traces as requested with red pencil.)

Q. You have stated that you have made surveys in the vicinity of Wright's Point. In making these surveys, state whether or not you have checked them with this map and whether or not you found the map substantially correct.

A. The map checks with all the work I have done there in that county.

Q. You say you find them substantially correct?

A. Yes, sir.

Q. Will you please examine the Government plat of the survey, Arkansas Exhibit No. 8, and the quadrangle map, Arkansas Exhibit No. 7, and state what changes have taken place in the vicinity of Needham's Cut-off?

[fols. 340-345] A. The peninsula through sections—peninsula comprising sections 11 and 12 has been eroded—the downstream side of the peninsula has been increased in size by the accumulation of new land since 1837. The old bend of the River around the left or Tennessee bank as shown on the plat of 1837 has been practically closed.

Q. Does it put any new formations on the west side of Moss Island?

A. The plat also shows a formation known as Blue Grass Tow Head which the plat doesn't indicate as a new formation, but of which I have personal knowledge.

Q. The plat that you refer to there—is that the Engineers' Quadrangle?

A. Yes, it was the Engineers' Quadrangle, the last one I referred to.

Q. Do you know the date of publication of that Engineers' Quadrangle, your Exhibit No. 7.

A. It was revised up to 1935.

[fol. 346] Q. Referring to Arkansas Exhibit No. 7, do you know of your own knowledge when the area designated as "Blue Grass Tow Head" formed?

[fols. 347-355] A. That has formed since 1916. Now, that is the area indicated on this Exhibit as the "Blue Grass

Tow Head". There was a strip of land immediately east of what is designated as "Blue Grass Tow Head", but the area now indicated as "Blue Grass Tow Head" is of recent formation, probably later than 1916.

Q. Do you find, from an examination of the Engineers' Quadrangle Arkansas Exhibit No. 7, any re-formation of the original survey of Arkansas other than the original meander line?

A. A small portion of the area designated as "Blue Grass Tow Head" lies within the original meander line of Arkansas as indicated on the Survey of 1837.

[fols. 356-382] Q. After the cut-off came which has been testified to as in February, 1821, would you expect the O'Bion River to continue to flow around the old bed of the Mississippi River as it did prior to the cut-off?

A. I think it had some considerable influence in keeping it open longer.

Q. Isn't it your opinion that the O'Bion River today above Tiger's Tail continues to flow around the old bed until it reaches the new formations around the bend of the Mississippi?

A. Yes. It spreads more in that vicinity and hasn't the banks in other places, but it has to come through there and out into the Mississippi.

Q. Normally, it would continue to discharge through that old basin?

A. Yes, sir.

[fols. 383-388] REBUTTAL TESTIMONY IN BEHALF OF THE STATE OF ARKANSAS, PLAINTIFF, TAKEN IN DYERSBURG, TENNESSEE, ON THE 26TH DAY OF OCTOBER, 1938

[fols. 389-426] MR. O. W. GAUSS, a witness in behalf of plaintiff, after first having been duly sworn by the Special Master to tell the truth, the whole truth and nothing but the truth, testified as follows:

Direct examination.

By D. Fred Taylor, Jr., Esq.:

Q. You are Mr. O. W. Gauss?

A. Yes, sir.

Q. You previously testified in this case in behalf of the State of Arkansas on June 14, 1938, at Memphis, Tennessee?

A. I did. Yes, sir.

[fol. 427] Q. The old bank of the old river in the vicinity of these trees along the dirt road is still plainly discernable?

A. From a point approximately a quarter of a mile northeast of the intersection of the dirt road with the concrete road, it is plainly discernable, then for approximately two or two and a half miles until the channel made the crossing back over to the other side and from there on around the bend, it becomes a flat building surface.

Q. What do you mean by the channel crossing over to the other side?

A. The channel crossing.

Q. Yes?

A. In this instance the abrupt bank would indicate the point where the channel crossing was begun prior to abandonment of the Tiger Tail Bend.

Q. Tiger Tail Bend is around the east side of the Island?

[fol. 428] A. The bend that flowed around the eastward end of what is now known as Moss Island.

Q. Mr. Gauss, on Arkansas Rebuttal Exhibit Number 1 you have marked there "Dirt Road" and "High Bank". Is that dirt road located or shown on the quadrangle, Tennessee Exhibit Number 25?

A. It is. The

Q. Where?

A. The road and the bank I have on the map are substantially shown on the north of the fields on the quadrangle.

Q. Then the locations you have made on Arkansas Rebuttal Exhibit Number 1 of the trees is made by actual measurement and survey?

A. Yes, sir.

Q. Have you had occasion to examine and locate any old Tennessee Grants?

A. I have done quite a lot of work of that kind.

Q. Quite a lot of surveying of that kind?

A. Yes, sir.

Q. Did you have any difficulty in making these surveys or locations or was it done with the greatest of ease?

A. The grants up and down the river that I have had anything to do with are very hard to locate by their original calls. Many of them when platted out and when I have tried to survey them, will extend in some instances into what at the time of the survey, from what authentic maps state,

is the bed of the Mississippi River and even across the river into Arkansas.

Q. If there are any particular or specific topographic features set out, do you have much trouble locating them? [fol. 429] A. Frequently these grants indicate some fixed object or topographic feature in the nature of a natural monument which will enable you to approximately interpret them.

Q. I show you Tennessee Exhibit Number 14, referred to in this record as "The Bradon Map" and I will ask you whether or not you have a reduced copy of this map?

A. I had a photostat reduced.

Q. To what size?

A. To exactly half that size.

Q. Then the scale of Tennessee— If one inch equaled eight hundred feet, the scale on the reduced map would be what?

A. One inch equals sixteen hundred feet.

Q. Are you familiar with the description of the James Manney entry as shown on Tennessee Exhibit Number 14?

A. Yes, sir.

Q. You have read it?

A. Yes, sir, a number of times.

Q. Please state whether or not the Manney entry is properly located on this Exhibit which is before you?

A. Well, there are two obvious mistakes on that Manney plat. In that the east line of the Manney entry is indicated in the text to be one hundred eighty-eight poles; whereas, this map here gives the east line three hundred poles. The east line as platted on the map for six inches at eight hundred feet to the inch would be 4,800 feet and sixteen and a half feet to the pole would be about three hundred poles; [fol. 430] whereas, it is indicated on the map and in the text of the survey as one hundred eighty-eight poles. The north line of the Manney entry as indicated on the map has a length of three hundred and eight poles; whereas, in the text and on the map it is indicated as three hundred eighty poles. There is another feature of the Manney entry that is significant to me for the fact that the meanders of the Obion River on the original Manney entry, that is the first two or three courses, are in a southwestwardly direction which of necessity would place the north line of the Manney entry above the abrupt bend in the Obion River as shown on the Quadrangle, Tennessee Exhibit Number 25. It is the point

which I mark in ink by "Q" with a circle around it northwest of the word "Obion". That is what I observed about the Manney entry. There is a plat of it down in the Clerk's Office.

Q. Continuing examining Tennessee Exhibit Number 14, would the records show that by measurements to be about 16,000 feet from Brackin Lake, the upper tip, following to the western boundary of the Terrell-McLemore entry? I wish you would scale that and show about where it comes out on Tennessee Exhibit Number 14 that is before you.

A. Well, from the northeast corner of the Terrell-McLemore entry as indicated on Tennessee Exhibit Number 14 on the bank of Brackin Lake just above the fork in the lake which is identified on Tennessee Exhibit Number 25—I think that has been identified here on this map—and producing the measurements to get to the west side of the grant, as surveyed in 1824, the distance is 629 poles plus the departure of a course of North 55 Degrees East, 340 poles, the sum of which is 967 poles, approximately 16,000 feet. [fol. 431] Using the scale of the Quadrangle and applying it to that initial point, we find that 16,000 feet places the extreme west line of the survey of the Terrell-McLemore Grant at the west side of a tow-head marked "M" and shown in red on Tennessee Exhibit Number 25. In other words, it scales out to be on a tow-head at the west end of the Terrell-McLemore Survey. Now, with reference to Tennessee Exhibit Number 14, the distance across from that point there is 15,600 feet. In other words, Tennessee Number 14 puts more space in there than is shown on the quadrangle. I know from a survey across the river the relationship of the hard road to the Arkansas Survey which is shown by the dotted line on Tennessee Exhibit Number 25. Consequently, the only conclusion is that there is something radically wrong with the east and west position of Tennessee Exhibit Number 14. It doesn't fit the Quadrangle. Either the Quadrangle is wrong or Tennessee Exhibit Number 14 is wrong.

Q. Take the south line of the Terrell-McLemore Grant and state whether it is correctly located.

A. Well, the bearing is off.

Q. What do you make the bearing?

A. The bearing is a few degrees off when you apply the test of a protractor. It is called North 77 degrees West

and is made to appear to close, but I don't see how you could close it that way.

Q. Mr. Gauss, take the ruler there and scale from the Obion River at the east end—in the vicinity of the east end of Michell Lake and measure south to Obion River across the island and see how far you would get.

A. Well, right across there it is twenty-two inches and with eight hundred feet to the inch it would be 17,600 feet [fol. 432] on the Bradon Map and on the Quadrangle right there at the same point it is about 19,500 feet. In other words, one is about two thousand feet wider than the other.

Q. Which is wider?

A. The Quadrangle is wider.

Q. Then, if this Bradon Map purports to show the correct location of the land to the Obion River as you have just scaled it, it is about 2,000 feet off?

A. According to the Quadrangle it is, which is a photostatic map reduced to scale and a survey of the entire region.

Q. I hand you a map to be identified as Arkansas Rebuttal Exhibit Number 2. Please state what that map purports to be?

A. That map is a photostatic copy of Tennessee Exhibit Number 14 reduced to the scale of 1600 feet to the inch and superimposed thereupon in red lines are certain grants, including a grant which was omitted from Tennessee Exhibit Number 14 and these red lines are, in my opinion, as nearly as I can judge from my surveys and examination, the approximate proper location of the grants shown on Tennessee Exhibit Number 14.

(The map referred to was marked "Arkansas Rebuttal Exhibit Number 14", is attached hereto and made a part hereof.)

Q. What part of the map with reference to Moss Island proper did you superimpose the entry lines on?

A. I superimposed on the nap the lines of the grants on the north side of the river and not on Moss Island, but I might state that I used as a basis the line of the Armstrong Grant as designated on Tennessee Exhibit Number 14 and I am not satisfied with it exactly as the original line, but [fol. 433] it would be an approximation. The Isaac Samson Grant was immediately west of the Armstrong line and it indicates where it joins the other entries and by this bend of the river on the Manney entry, the plat of which, I think, is to be introduced.

Q. Do your red lines show the same grants with the exception of the Isaac Samson Grant as Mr. Bradon indicated with black but in a different position?

A. Yes, the Samson Grant is added and the other entries are in the position that they would be forced to assume from the Isaac Samson Grant and other features I have indicated.

Q. How were you able to place the Isaac Samson 1030 acre grant in red, whereas Mr. Bradon states he didn't have room for it?

A. There is bound to be some additional land in there, that has not been taken into consideration by his map.

Q. Would any natural monuments or specific topographical features of the description of the Manney entry enable you to make the proper location?

A. That bend of the river which is fixed and which obviously has not been changed is a good indication.

Q. That is the north line of the Manney entry?

A. The Manney Entry.

Q. Are you familiar with the—the length of the east line of the Isaac Samson Entry?

A. Yes, I think there is a map of that here. I can't remember exactly all these distances, but I think it is 288 poles, or 4,752 feet.

Q. Please examine the description of the Isaac Samson 1030 acre grant and determine how many poles distance there is in the east line.

[fols. 434-444] A. Let's see. 280 poles at $16\frac{1}{2}$ feet to the pole would be 4,620 feet. Now, by taking the Armstrong line as now admitted and established on the ground for the correct location of the original Samson survey and starting at the Qbion River and produce the line 4,620 feet south, you land on that high bank just north of where those trees are located about 1100 feet east of the Kansas City Shook Log Yard and that indicates that it was an actual survey of the Isaac Samson Grant on the ground.

* * * * *
[fols. 445-457] Mr. Taylor: Are you familiar with the Centennial Cut-Off?

A. Yes, sir.

Q. Do you know whether it is anything unusual for Arkansas and Tennessee to be squabbling over the islands and cut-offs in the Mississippi River?

A. There are numerous suits of that type.

[fol. 458] Q. Mr. Gauss, Arkansas Number 2 in rebuttal which is a reduction of Tennessee Exhibit Number 14, did you make any investigation south of the McLemore-Terrell Grant with reference to the survey?

A. Investigation?

Q. They are correctly located, are they not?

A. Mr. Tipton, I think that the hypothesis on which this map is constructed is wrong. I don't think they are properly located. For instance, here on this map it indicates with an arrow "Box Elder and Sycamore, Upper End of Chute". That would indicate that the map was meant to be the original. Is it possible that there could have been no changes? That corner must have been southwest. I cannot check those grants and I wouldn't. It would take months. They over-lap there.

Q. They are all Tennessee grants?

A. Yes, sir.

Q. They all bear dates?

A. Yes, sir.

Q. The oldest corner on Moss Island is the southwest corner of the Armstrong Grant?

A. Well, yes, I presume so. However, there is a very peculiar situation there. I tried to find out about that [fol. 459] corner. The line brought straight across comes out way below Chick and on the ground, it comes out right at Chick. Something is wrong. I could spend half a year and then wouldn't know much about those grants.

Q. The party who has been surveying down there would have more information about them wouldn't he?

A. Might have, depending upon his back-ground.

Q. What?

A. Depending on his back-ground of information and intention.

Q. You will surely credit all with good intentions?

A. I presume so, if he had no interest.

Q. You might state right out whether you think Mr. Bradon intentionally stated them wrong?

A. I have no way of knowing whether his actions were deliberate or not.

Q. You think the entire map is wrong?

A. I think the hypothesis is wrong.

Q. In what respect?

A. In locating the original McLemore & Terrell grant corner when the trees and arrow indicate that was the origi-

nal and I cannot imagine that corner remaining in the exact spot when I know the changes having occurred.

Q. Did it ever occur to you that he indicated them for the convenience of anyone examining the map?

A. I am taking the map on its face value. I do not know Mr. Bradon personally.

Q. Obviously.

A. I think he is superintendent of the Chick Farm and [fol. 460] knows the location of what they have on the ground.

Q. Did you try to relocate the lines of the Moss Grant?

A. I have taken the line which purports to be the line between Chick and Hendricks and extended it north across Michell Lake to the Obion River. I did that for the purpose of running out the Samson Grant.

Q. Did you do that on the ground?

A. Yes, sir.

Q. Starting at the southwest Armstrong corner?

A. I used for a starting point this line on—

Q. Wait, you are referring to Tennessee Exhibit Number 25?

A. I got the distance from the intersection of the line between the Brayton property or Chick property and the Hendricks property, purported to be the Armstrong line and from the point where it intersected the high bank ran it to the Obion River without making lineal measurements then. In the Samson 1030 acre grant, I made a measurement south from the Obion River to the end of the 280 poles called for to see if perchance there was any physical evidence of what the Samson Grant called for and I came out approximately at the high bank.

Q. The point I am making is this; you made no effort whatever to locate the southwest corner of the Armstrong land?

A. Yes, sir.

Q. Well, what was it?

A. It is tangled up until I wouldn't attempt to say. It ought to be 1,000 feet further south. It wont close by 1,000 feet.

[fol. 461] Q. Wouldn't those people who have been living there know where the corners are?

A. Not where the originals were. You take this Jones Entry, in this lawsuit between Watson. The Court held the line was between these grants wherever it appeared to be.

but they agreed among themselves and fixed it there. I don't think anyone knows where the original corners were.

Q. Is the Hendricks place the original Moss Entry?

A. Part of it.

Q. All of it?

A. I don't know.

Q. You have made no investigation of the chain of title?

A. No, sir.

Q. You have made no examination of the chain of title to the Terrell and McLemore Grant to see how it has come down to date?

A. No, merely my information which is taken merely from the original survey.

Q. And you say you think this map is wrong but you are not able to say where?

A. Your statement is about correct. It would take weeks and weeks to find out.

Q. A man who has been surveying down there for twenty years, you think his entire map is wrong?

A. Yes, when—

Q. A man who has been surveying down there for twenty years?

A. Yes, but when he puts out a map with *prima facie* errors in it, you loose faith in him.

[fol. 462] Q. Perhaps, if you knew who are holding under those chains of title, wouldn't you change your opinion?

A. Not a bit. The evidence is too plain on the ground and the original survey of the grants.

Q. Are many which purport to be on Moss Island, in fact on it?

A. I think you would say that the Terrell & McLemore Grant and also part of the Moss Grant. That would be a matter of opinion.

Q. Do you think that at least part of the Moss Entry and part of the Terrell-McLemore Entry were on Moss Island?

A. I think so.

Q. Here I hand you Tennessee Exhibit Number 10 which is a copy of a grant to Connally, etc., for 200 acres. Have you examined it?

A. I don't know.

Q. See if you have.

A. Yes.

Q. Doesn't it call to begin at the lower point on the Mississippi River of the McLemore & Terrell Entry?

A. I have examined it. It was made in December, 1838. I have read that there. I was interested in it. That is out on the sand bar. He had to go 36 poles to a willow witness tree marking his corner standing 36 poles away. If he had to go 36 poles for a willow to use as a witness tree, he was on a sand bar.

Q. It purports to begin at that point where the south boundary line of the Terrell & McLemore Entry strikes the River?

A. Yes, sir, it purports to be—

Q. Then it purports to run down the river with the meanders to the mouth of the Obion River?

A. I will have to read it.

Q. Examine it and be sure.

A. That is my recollection; yes, "down said river as it meanders". Finally he gets to the—

Q. Mouth of the Obion River, doesn't he?

A. Yes, I believe that is what he stated.

Q. Runs east from there?

A. Yes.

Q. East and north generally speaking?

A. Yes. It doesn't quite close, but that is what it is meant to be.

Q. That tract lies on Moss Island?

A. Well, it lies in the river bed. I don't know where you distinguish.

Q. It does lie between the original south bank of Moss Island and the Obion River?

A. It purports to.

Q. You have no information to question the accuracy of this nearly a hundred year old instrument, have you?

A. No, sir.

Q. Now, then, I hand you Tennessee Exhibit Number 9, Mr. Gauss, and ask you to examine the calls and see if that doesn't begin on the south?

A. That purports to be on the south; 1847-1849.

Q. That purports to be a Tennessee grant?

A. Yes, sir.

Q. It covers part of the land that this litigation is over?

A. I presume so. It purports to.

[fols. 464-495] Q. It purports to?

A. Yes, sir.

Q. Do you have any reason to approve or disapprove?

A. I neither attempt to approve or disapprove until I have checked.

Q. Does that go for your entire statement?

A. So far as those grants are concerned.

Q. Then you have no reason to say that these are not in the territory they are supposed to be in?

A. No, I wouldn't say they are not. Those to the south, I don't know what he has got. One is completely out of reason. It crossed the river and into Arkansas. Has he the Roth Entry on there?

Q. I don't see any. The witness can examine the map if he desires. I don't see it.

[fol. 496]

OFFER IN EVIDENCE

Mr. Taylor: If the Court please, I would like to offer in evidence a certificate from Otis Page, State Land Commissioner of the State of Arkansas, dated May 31st, 1938, showing patenting of certain lands and showing selection of certain lands by the State of Arkansas and patents by the State of Arkansas to certain individuals to certain lands located in T. 15 N., R. 13 E, 5th Principal Meridian of Arkansas, and I would like for the record to show that it is stipulated between counsel that this certificate shall also show that in each instance of a patent to the State of Arkansas and also from the State of Arkansas to different individuals that the description of the land is limited or was limited to the area as actually surveyed by the Official Survey of the United States Government.

Counsel assenting, the certificate was admitted in evidence and is attached next under.

[fol. 497] STATE OF ARKANSAS,
County of Pulaski, ss:

I, Otis Page, Commissioner of State Lands of the State of Arkansas, hereby certify that the records of my office show that Fr. Sections 11 and 12, Twp. 15 N. Range 13 E., in Mississippi County, were selected from the United States as swamp and overflo- lands by the State of Arkansas under the Act of September 28th, 1850, and acts subsequent thereto, commonly known as the "Swamp Land Grants", and that on June 13, 1854, Certificate of Purchase No. 1,044 was issued by said State of Arkansas to Joseph W. Matthews for N½, Sec. 12, Twp. 15 N., Range 13 E. 50.95 acres, and on August 4, 1858, Certificate of Purchase No. 3,975 was issued

by said State of Arkansas to William M. Page for N $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 12, Twp. 15 N., Range 13 E., 20.11 acres, and S $\frac{1}{2}$, Sec. 11, Twp. 15 N., Range 13 E., 129.76 acres; that on May 15, 1858 Certificate of Purchase No. 205 was issued by the State of Arkansas to W. H. Wright for N $\frac{1}{2}$, Sec. 11, Twp. 15 N., Range 13 E., 289.01 acres.

I hereby further certify that the records of my office show that the lists of all the lands selected by the State of Arkansas from the United States Government as swamp and overflow lands do not embrace any lands east of the above described Sections 11 and 12.

Given under my hand and seal of office as such State land Commissioner this 31st day of May, 1938.

Otis Page, State Land Commissioner

(Seal)

(Here follow 3 photolithographs, side folios 498-500)

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ARKANSAS EXHIBIT NO. 7

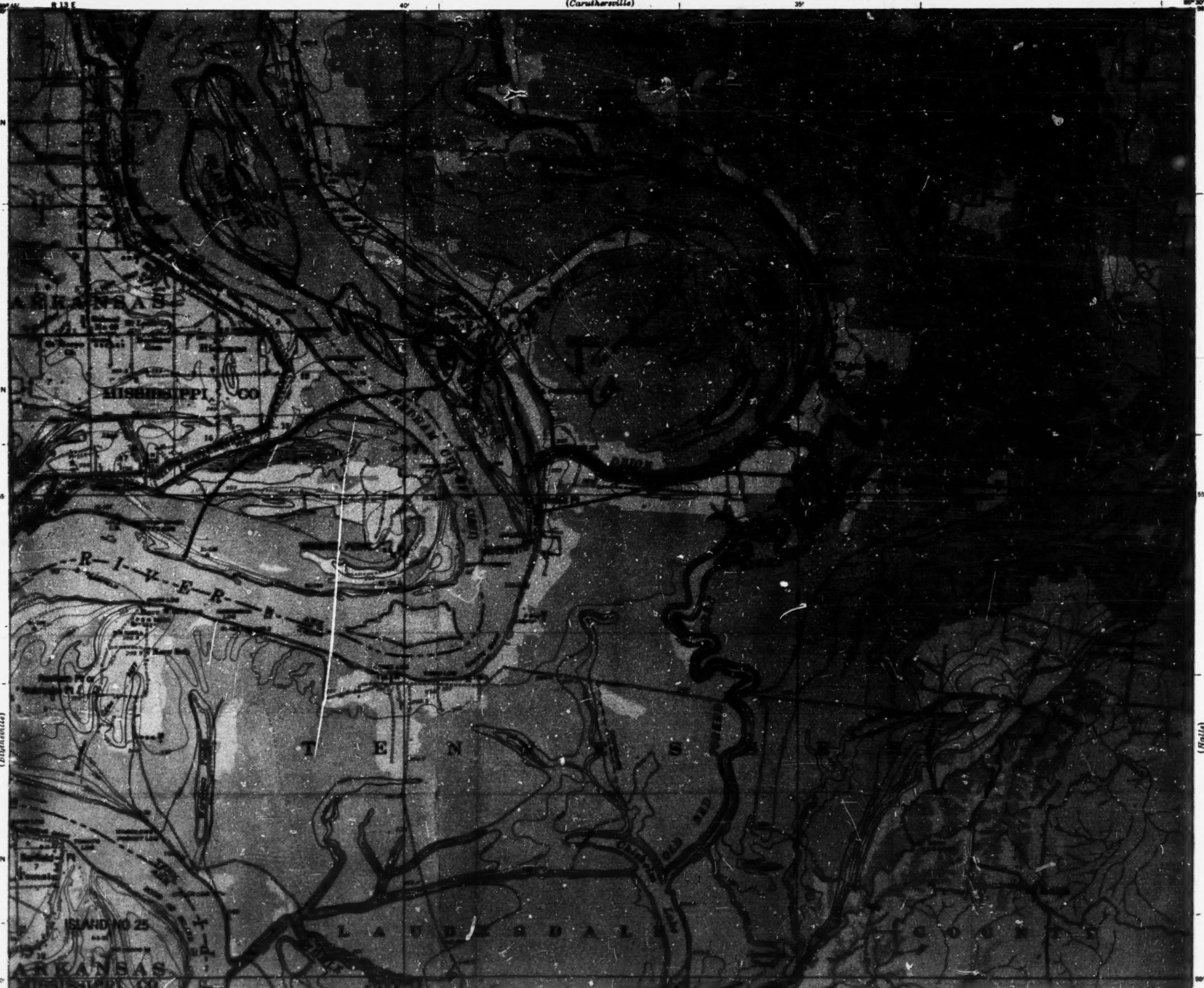
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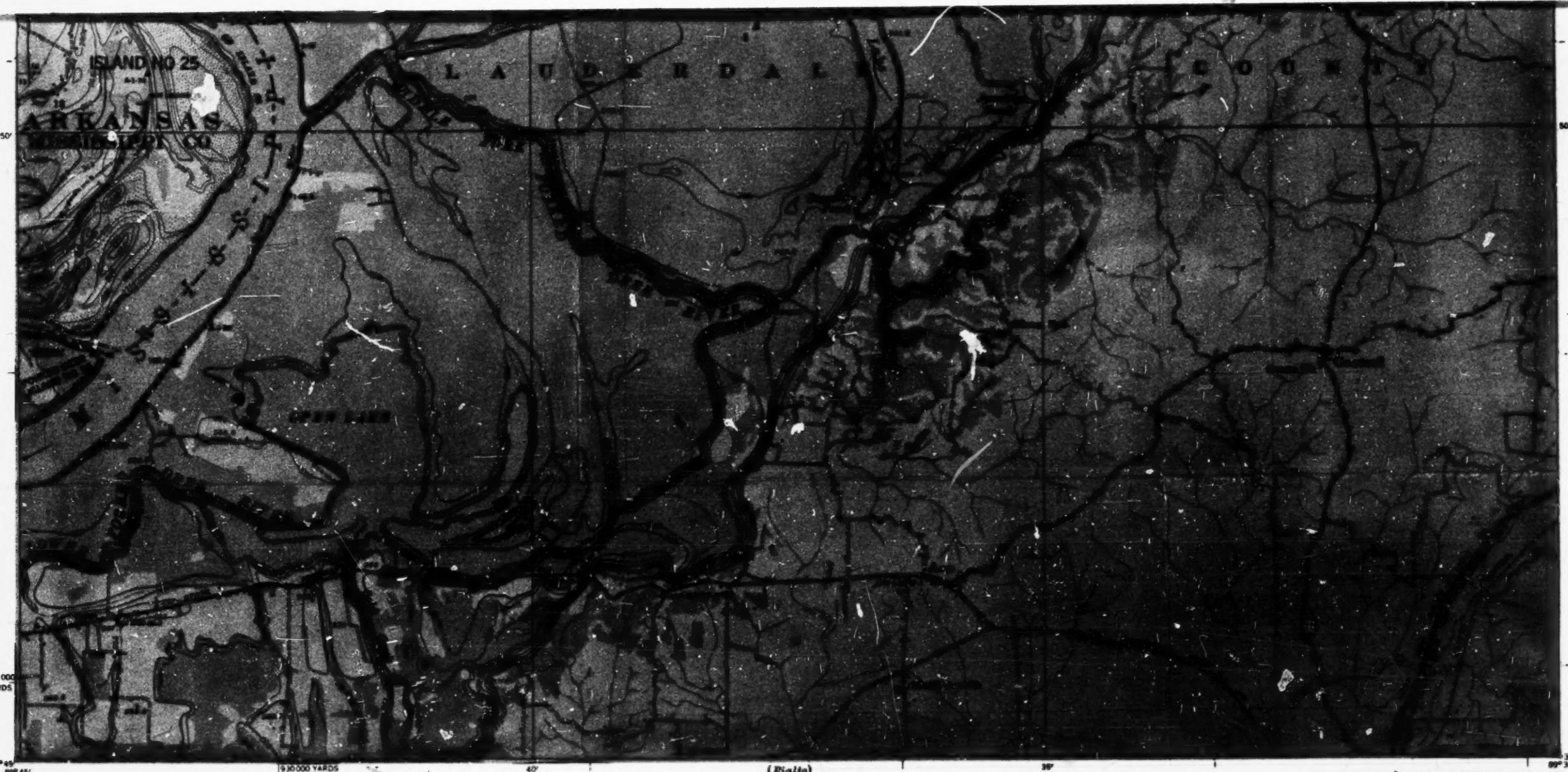
(Caruthersville)

WAR DEPARTMENT
CORPS OF ENGINEERSARKANSAS-TENNESSEE
HALES POINT QUADRANGLE
GRID ZONE "C"

76A

(Doverberg)

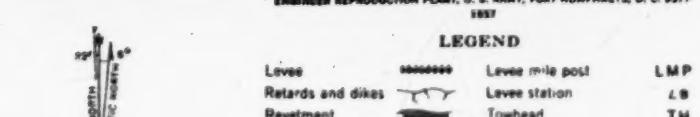




Prepared under the direction of the President, Mississippi River Commission.
 Horizontal control by Mississippi River Commission and Corps of Engineers,
 U. S. Army, Memphis District.
 Vertical control by Mississippi River Commission and Corps of Engineers,
 U. S. Army, Memphis District.
 Topography by Corps of Engineers, U. S. Army, Memphis District, 1930.
 Revised by Mississippi River Commission, 1932-35.
 Political boundaries are shown according to best available information
 and are subject to change except where established by court decision.
 Work under Flood Control Act as of March, 1934.
 Polyconic Projection, North American Datum.

Datum is mean gulf level at Biloxi, Mississippi. Elevations differ from mean sea level elevations as determined by the U. S. Coast and Geodetic Survey, by small fractions of a foot. Persons interested may secure elevations of bench marks as determined by the latest U. S. C. & G. S. adjustment by applying to the U. S. Coast and Geodetic Survey.
 FIVE THOUSAND YARD GRID COMPUTED FROM GRID SYSTEM FOR PROGRESSIVE MAPS
 IN THE U. S. EARTH C. & G. S. SPECIAL PUBLICATION NO. 92.

Additional copies may be procured from
 The President, Mississippi River Commission
 Vicksburg, Miss. 10 cents per copy



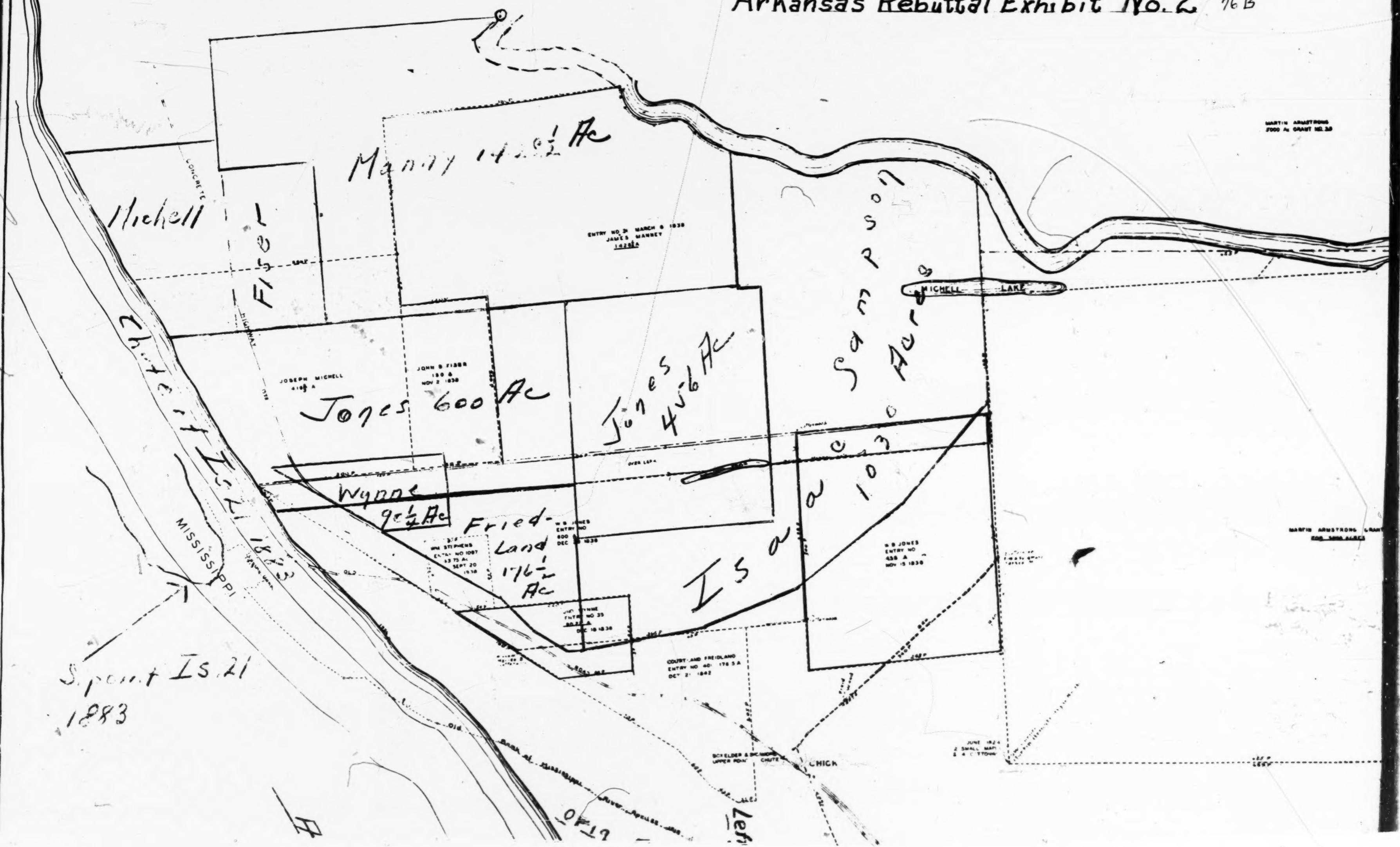
Distances below Cairo gage are shown at 5 mile intervals.
 Distances above mouths of Obion and Forked Deer Rivers
 are shown at 5 mile intervals.

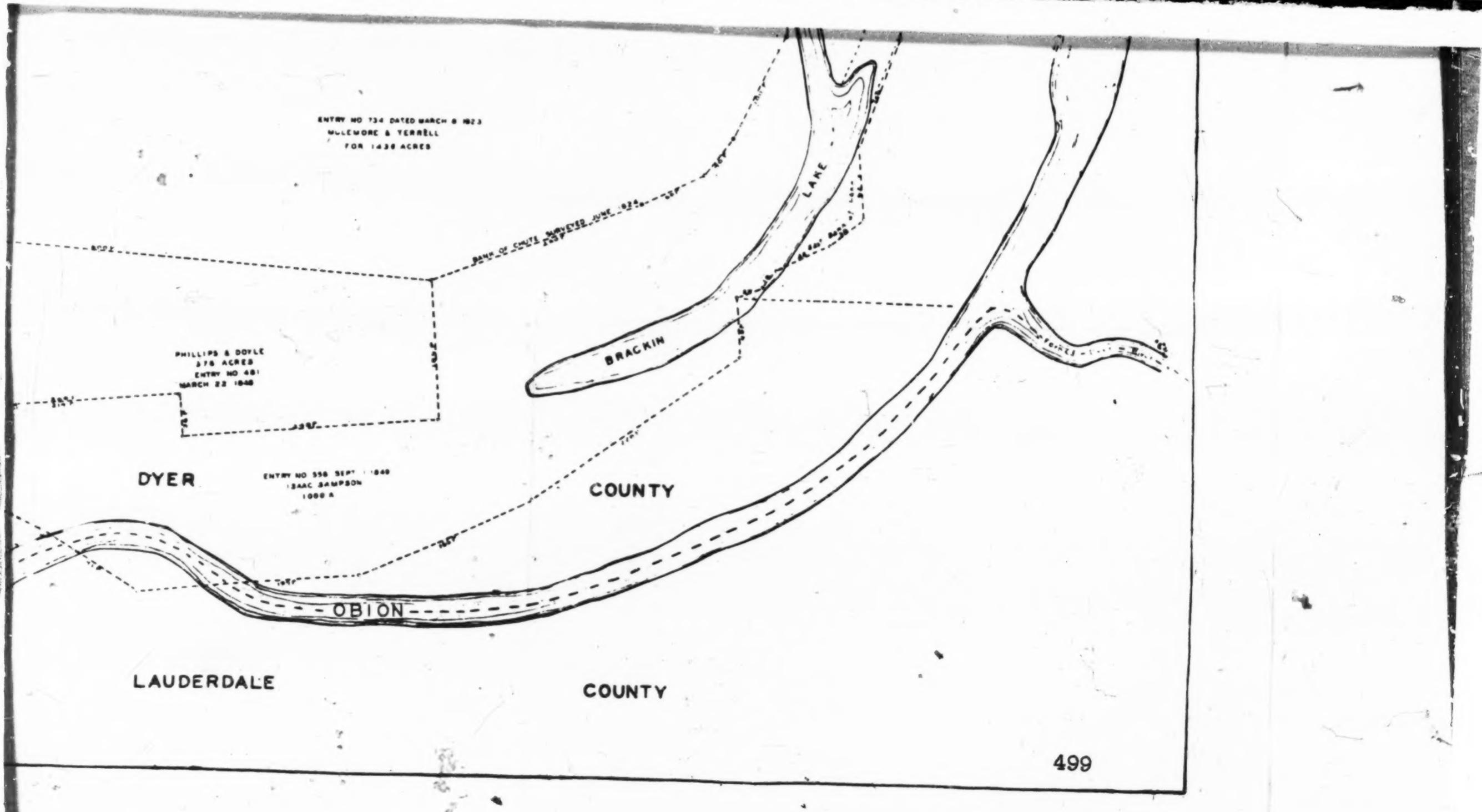
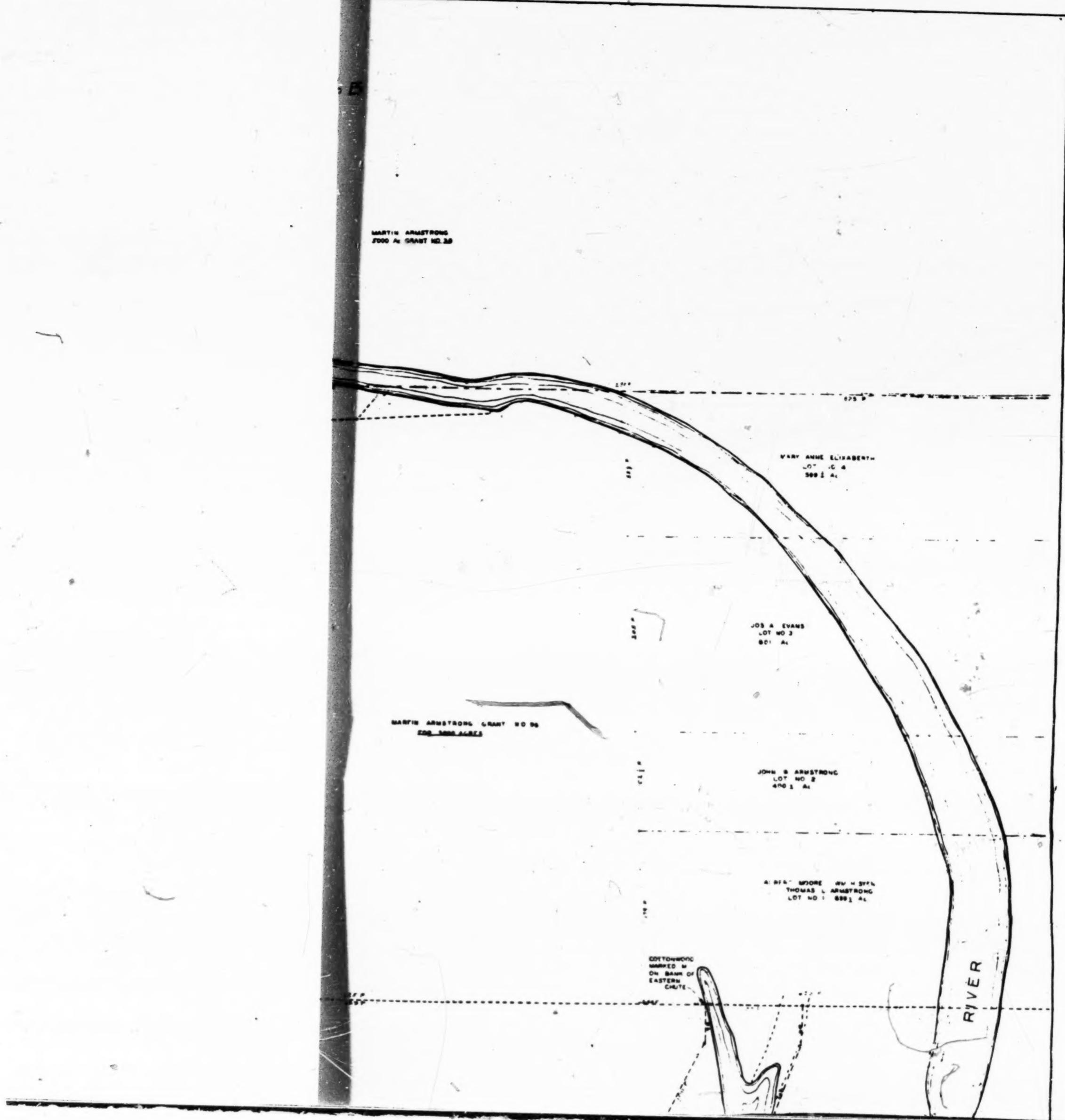
HARD IMPERVIOUSLY SURFACED ROADS
 OTHER MAIN TRAVELED ROADS, GRAVEL

HALES POINT, ARK.-TENN

EDITION OF 1935

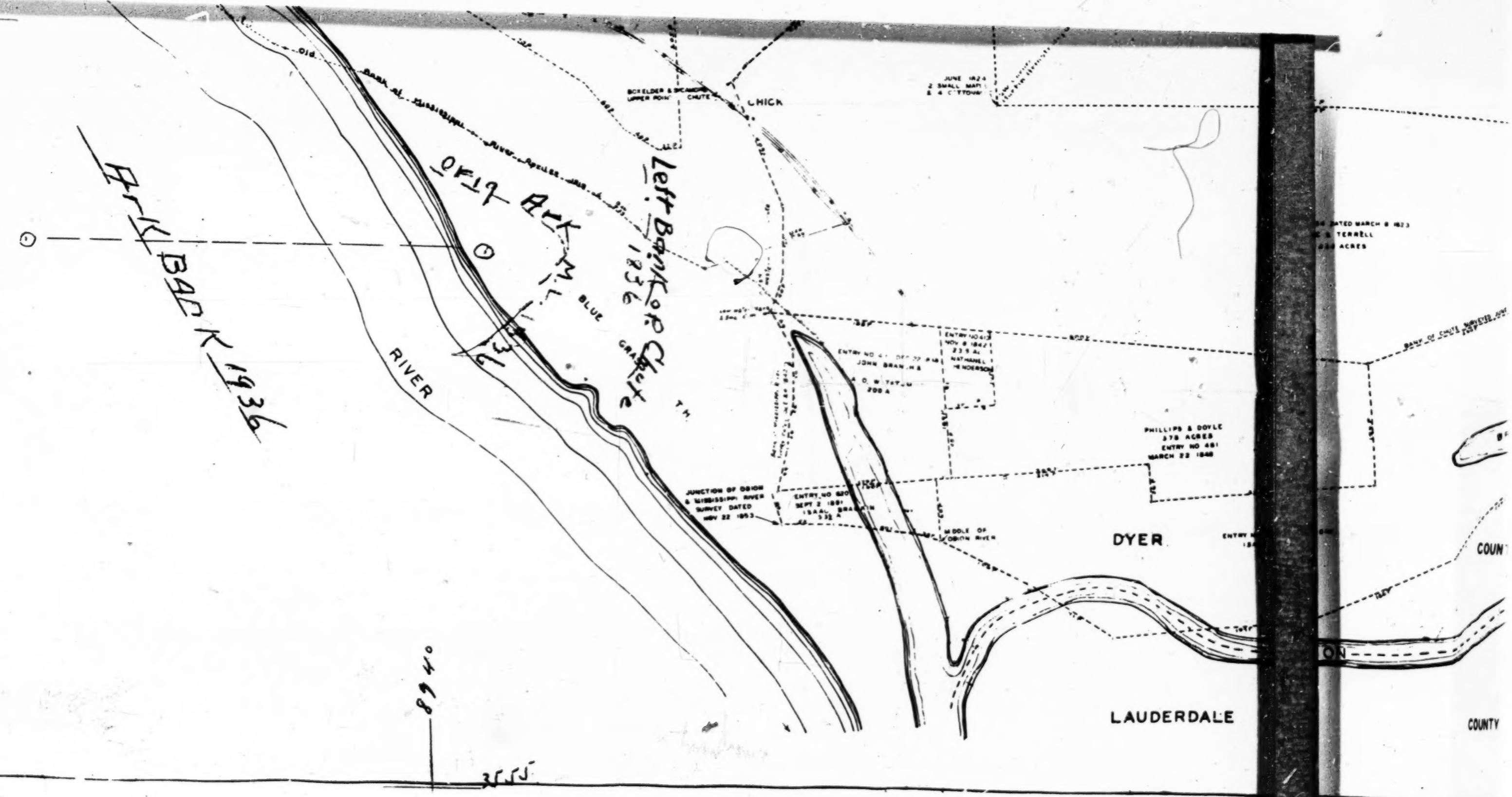
Arkansas Rebuttal Exhibit No. 2 76 B





1883

Brk Bank 1936





Office of the Postmaster General
Washington, D. C.

August 22, 1938.

This is to certify that the post office of Chic, Dyer County, Tennessee, was established on September 18, 1900, with Pleas Tipton as postmaster. The Chic office was discontinued on November 15, 1913. Mail for the former patrons was ordered sent to Heloise. On June 18, 1915 the Chic post office was reestablished and is still in operation.



Acting Postmaster General.

500

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[fol. 501] TENNESSEE EXHIBIT No. 2

STATE OF TENNESSEE, 13TH DISTRICT.

By virtue of an entry No. 734 dated 8th March 1823 founded on military warrant No. 926 for Twenty Five Hundred and Sixty acres, I have surveyed for John Terrell Six Hundred and Thirty Two acres and 151/160 and as John C. McLemore as agent for the University of the State of North Carolina Eight Hundred Thirty Four acres and 9/160 of land in said district in the 2nd section and tenth and eleventh ranges, in an island in the Mississippi River known by the name of Cutoff Island. Beginning at two small elms at the lower water point of said island in the 11th range running up with the bark of the main channel and Western chute north 25 deg. East 40 poles, north 4 deg. east 70 poles north 18 deg. west 160 poles in all 270 poles to a box elder and sycamore marked M at the upper point of said chute, north 55 deg. east Three hundred and fifty poles to two cottonwoods and elm and sycamore marked M in the west boundary line of Grant No. 96 from the State of North Carolina to Martin Armstrong for 5,000 acres. Thence, south with said line according to the magnetic needle Two Hundred and Sixty Six poles to two small maples and four small cottonwoods, one marked M, the southwest corner of said grant No. 96, thence east according to the magnetic needle with the south boundary of said grant Six Hundred and Eighty Nine poles to a cottonwood marked M. in the bank of said eastern chute of the Mississippi River, then down with the meanders of the same south 40 poles, south 30 deg. west 100 poles, south 40 deg. west 40 poles, South 67 deg. West 60 poles, south 72 deg. west 200 poles, north 77 deg. west 600 poles, making all One Thousand and Forty poles to the beginning, con-[fol. 502] taining in the above buts and bounds Fourteen Hundred and Sixty Nine acres. Said entry intended to cover 2560 acres but no more could be obtained for the interference of an olden claim granted by the State of North Carolina by Grant No. 96 to M. Armstrong and natural boundaries which leaves a balance of said warrant unsatisfied One Thousand and Ninety Three acres, to-wit: 470 acres and 9/160 to said Terrell, and 22 acres

and 150/160 to said McLemore as agent as aforesaid yet to be satisfied. Surveyed 5th March, 1824.

John Murray D., Surveyor.

John W. Walker, Thomas Hill, S. C. C.

STATE OF TENNESSEE,
Dyer County:

I, Aultie Mulherin, County Register for the State and County aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of entry No. 734 in the name of John Terrell and John C. McLemore as the same appears in Survey Record 1, p. 60 of the records in my office.

Witness my hand, there being no seal of office, on this the 11th day of August, 1938.

Aultie Mulherin, County Register.

[fol. 503] **STATE OF TENNESSEE,**
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs. Aultie Mulherin, whose genuine signature appears above, was at the time of signing the same the duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

[fol. 504]

TENNESSEE EXHIBIT No. 3

STATE OF TENNESSEE,
Dyer County:

By virtue of Entry No. 31 dated the 6th day of March 1838 founded on Certificate Warrant No. 3544, dated the 11th day of November 1836, I have surveyed for James Manny fourteen hundred and twenty-eight and one-half acres of land situated in Dyer County in the 10th Range, and 2nd section in the Mississippi bottom, beginning at a stake with three ash two elms and a hickory marked as pointers, 286 poles east of the northwest upper corner of Joseph Michell's 416 $\frac{2}{3}$ acre entry and his northwest corner, running from thence north one hundred and sixty poles to a willow and persimmon and pointers in the edge of a pond or low flat, thence east three hundred and eight poles to a small sycamore and large cottonwood marked "M" and pointers standing in the top of the second bank of the Obion River, about 60 feet from the edge of the water at low water mark, thence down said river as it meanders south 73 deg. west sixty-six poles south 38 deg. west thirty-two poles, south 20 deg. east twenty-eight poles, south 75 deg. east fifty-four poles, south 64 deg. east 20 poles, south 41 deg. east sixty poles, south 75 deg. east fifty poles, south 56 deg. east sixty-six poles, north 69 deg. east thirty-eight poles, south 82 deg. east twenty-four poles, south 75 deg. east sixty-two poles, south 42 deg. east eighteen poles in all five hundred and seventy nine poles to two maples and a cottonwood and pointers standing in the bank of said river, thence south one hundred and eighty-eight poles to a stake and small willow pointers, thence west nine hundred poles to the bank of the Mississippi river, thence up said river as it meanders north 55 deg. west sixty-three poles to two cot-

[fol. 505] tonwoods, the southwest or lower corner of Joseph Michell's 416 $\frac{2}{3}$ acre entry, thence east with his south boundary line and the south boundary line of a 150 acre entry in the name of John B. Fiser three hundred twenty poles to said Fiser's southeast corner, thence north with his east boundary line, two hundred poles to his northeast corner, thence west with his north boundary line one hundred and twenty poles to his northwest corner in the east boundary line of Joseph's Michell's 416 $\frac{2}{3}$ acre entry, thence north with said Michell's line sixty-five poles to the beginning, in-

cluding and excluding an entry for 222/9 acres in the name of M. W. Campbell. Surveyed Dec. 8th, 9th, 10th, 1843.

Z. B. Phillips, Surveyor for Dyer County.

William McKnight, S. C. C. Robt. H. Dyer. John Ridens, Marker.

STATE OF TENNESSEE,
Dyer County:

I, Aultie Mulherin, County Register for the State and County aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of entry No. 31, in the name of James Manny as the same appears in Survey Record No. 1, p. 223, of the records in my office.

Witness my hand, there being no seal of office, on this the 11th day of August, 1938.

Aultie Mulherin, County Register.

[fol. 506] STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs. Aultie Mulherin, whose genuine signature appears above, was at the time of signing the same the duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

[fol. 507]

TENNESSEE EXHIBIT No. 4

STATE OF TENNESSEE,
Dyer County,
13 Surveyors District:

By virtue of entry No. — founded on Certificate Warrant No. 2871 for four hundred and sixty six acres, I have surveyed for William B. Jones, Assignee of Robert I. Chester four hundred and fifty six acres of land situate in the tenth range and Section Two, Mississippi bottom. Beginning at a cottonwood, the northeast corner of an entry in the name of said Jones for six hundred acres, thence south with the east boundary of said six hundred acre entry three hundred poles to a cottonwood and cottonwood pointers, thence east two hundred and forty three poles to a stake, thence north three hundred poles to a cottonwood, thence west two hundred and forty three poles to the beginning. Surveyed the 15 November 1838.

John Branch, S. D. C.

Edward Sweat, W. Carlile, C.C., E. H. Buchett Choffer.

[fol. 508] STATE OF TENNESSEE,
Dyer County:

I, Aultie Mulherin, County Register for the State and County aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of entry No. — founded on Certificate Warrant No. 2871 in the name of William B. Jones as the same appears in Survey Record, 1, p. 134 of the records in my office.

Witness my hand, there being no seal of office, on this the 11th day of August, 1938.

Aultie Mulherin, County Register.

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs. Aultie Mulherin, whose genuine signature appears above, was at the time of signing the same the duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg,
this the 11 day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

[fol. 509] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal Probate Court, Dyer County, Tennessee.)

[fol. 510] TENNESSEE EXHIBIT No. 5

By virtue of Entry No. — founded on Certificate Warrant No. 3676 for Six Hundred acres of land I have surveyed for William B. Jones, assignee of the heirs of Thomas and Robert King, six hundred acres of land situate in said County 10th Range 2, Section two in the Mississippi Bottom. Beginning at a cottonwood on the bank of the Mississippi river, the southwestern lower corner of a 416 acre entry in the name of Joseph Michell, thence down the river with its meanders south Fifty Five east Four Hundred poles to a willow marked B with cottonwood pointer, thence east three hundred and sixty four poles to a stake with cottonwood pointers, thence north two hundred and thirty eight poles to a cottonwood, thence west six hundred and eighty four poles to the beginning, including and excluding two forty three acre entries each in the name of William Stephens, also including and excluding twenty two and 2/9 acre entry in the name of M. W. Capbell also including and excluding sixty acres part of an entry in the name of John Wynn for ninety acres.

Surveyed the 20 of December 1828.

John Branch, S. D. C.

Edward Sweat, W. Carlile, E. H. Buchnell, C. B. Chopper.

[fol. 511] STATE OF TENNESSEE,
Dyer County:

I, Aultie Muelherin, County Register for the State and County aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of entry No. — founded on Certificate Warrant No. 3676 in the name of William B. Jones as the same appears in Survey Record 1, p. 134 of the records in my office.

Witness my hand, there being no seal of office, on this the 11th day of August, 1938.

Aultie Mulherin, County Register.

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs. Aultie Mulherin, whose genuine signature appears above, was at the time of signing the same the duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal Probate Court, Dyer County, Tennessee.)

[fol. 512] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal Probate Court, Dyer County, Tennessee.)

[fol. 513]

TENNESSEE EXHIBIT No. 6

STATE OF TENNESSEE,

Dyer County:

By virtue of entry No. 126 dated the 10th day of August 1859 under the provisions of the laws now in force in relation to the entry of vacant and unappropriated land in Tennessee. I have surveyed for Chas. C. Moss, three thousand acres of land in Dyer County State of Tennessee situated on the cutoff island lying south and west of the south and west bank of the Old Channel of the Mississippi River and south and west of the Obion River which now runs in said Old Channel of the Mississippi River in the 13th surveyors district 10th and 11th ranges and 2nd section. Beginning at the edge of low water mark on the right hand side of said river or Old Channel of the Mississippi River as it descends to where it empties into the present Mississippi River at a point due west of a sycamore marked J. M. standing on the left hand bank of said river or Old Channel just below the mouth of the Bostic Slough running thence west passing a mark and blazed willow not far from low water mark 910 poles to a stake and pointers, due south of Moro Michell's corner mentioned below, thence north passing two small maple and four cottonwood one marked "M" Moro Michell's corner running still north passing another corner of Michell's a dead cottonwood marked "M" and a sycamore and cottonwood as pointers standing on the south bank of said Old Channel of the Mississippi River at 266 poles from his other corner thence still north in all 586 poles to a stake in the Old Channel of the Mississippi River, thence south 30 deg. east 240 poles to a willow with five prongs on the south side of Obion River and in the Old Channel near low water mark and due south of the right hand bank of the Obion River where it empties into said Old Channel of the Mississippi River as it meanders and descends to empty into the present Mississippi River in all 1280 poles to the beginning—Surveyed November 11 and 12th, 1866. Hugh Johnson (Returned January 21st 1867) by H. V. C. Wynne, [fol. 514] Surveyor for Dyer County Moro Brackin) S. C. C. (Recorded January 21st, 1867) M. Perryman, marker.

STATE OF TENNESSEE,

Dyer County:

I, Aultie Mulherin, County Register for the State and County aforesaid, do hereby certify that the above and fore-

going is a full, true and perfect copy of entry No. 126 in the name of C. C. Moss as the same appears in Survey Record 2, p. 197, of the records in my office.

Witness my hand, there being no seal of office, on this the 11th day of August, 1938.

Aultie Mulherin, County Register.

[fol. 515] STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs. Aultie Mulherin, whose genuine signature appears above, was at the time of signing the same the duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee,

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

[fol. 516] TENNESSEE EXHIBIT No. 7

State of Tennessee. No. 4358

To all to whom these presents shall come, Greeting:

Know Ye, That by virtue of Entry No. 734 in the 13th Surveyor's District, dated 8 March, 1823, made in the name of John Terrill, John C. McLemore, agent, etc., for 1467 acres founded in part of duplicate military warrant No. 926, issued to President & Trustees—U. N. C. for the services

of Robert Singleton for 2560 acres—Survey bearing date 5th March, 1824.

There is granted by the said State of Tennessee, unto James Singleton, Sarah Singleton, Nancy, O. Barr, Lucinan, Betsy and Mary Singleton, ass^s of Terrill & McLemore, decrees of the Supreme Court of Tennessee a certain tract or parcel of land containing 1467 acres—Situated, lying and being in the County of Dyer in Ranges 10 and 11, Section 2 on an island in the Mississippi River known by the name of Cut Off Island. Beginning 3 small elms at the lower point of said island in 11th range running up with the — of the main channel or western chute, north 25 degrees east 40 poles, north 4 degrees east 70 poles, north 18 degrees west 160 poles, in all 270 poles to a box elder and sycamore marked J. M. at the upper point of said island, then down with the meanders of the bank of the eastern chute, north 55 degrees east 340 poles to a cottonwood elm and sycamore marked J. M. the west boundary line of grant No. 96 for the state of North Carolina to Martin Armstrong's for 5000 acres, then south with said line according to the magnetic needle 266 poles to 2 small maples and four small cottonwoods and marked J. M. the southwest corner of said grant No. 96—Then east according to the magnetic needle with the south boundary of said grant 689 poles to a cottonwood marked J. M. in the bank of said eastern [fol. 517] chute of the Mississippi River, then down with the meanders of the same south 40 poles, south 30 degrees west 100 poles, south 40 degrees west 40 poles, south 67 degrees west 60 poles, south 72 degrees west 200 poles, north 77 degrees west 600 poles, making in all 1040 poles to the beginning. With the hereditaments and appurtenances. To have and to hold the said tract or parcel of land with its appurtenances to the said Isaac Singleton, Sarah Singleton, Nancy, O. Barr, Lucinan, Betsy and Mary Singleton and their heirs forever. In witness whereof James K. Polk, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed at Nashville on the 5 day of December in the year of our Lord one thousand eight hundred and 39 and of the Independence of the United States, the sixty 64.

By the Governor,

John S. Young, Secretary.

James K. Polk.

[fol. 518]

TENNESSEE EXHIBIT No. 8

State of Tennessee

No. 5694

To All — Whom These Presents Shall Come Greeting:

Know Ye, That for and in consideration of the sum of Fees of Office paid into the Office of the Entry Taker of Dyer County, and entered on the 18th day of March, 1848, pursuant to the provisions of an Act of the General Assembly of said State, passed on the — day of —, 1847, by No. 481, there is granted by the said State of Tennessee, unto Z. B. Phillips and James H. Doyle a certain tract or parcel of land, containing 376 acres, by survey bearing date the 22nd day of March, 1848, lying in said county.

Range 11, Sections 1 and 2. On the north side of Obion River in the Mississippi bottom.

Beginning at a stake the N. E. corner of a 23½ acre tract in the name of Sarah M. Jones in the south boundary of McLemore and Terrill's 1436 acre entry; thence south with said Jones line 70 poles to a stake, her S. E. corner; thence west with her S. boundary 50 poles to a stake, her S. W. corner in the east boundary of a 200 acre entry in the name of Totten & Branch; thence south with their line 108 poles to a stake, their corner; thence east 200 poles to a stake; thence south 35 poles to a stake; thence east 240 poles to a stake; thence north 104 poles to a stake, in the south boundary of said McLemore & Terrill's 1436 acre entry; thence north 77 degrees west with their line 398 poles to the beginning. With the hereditaments and appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Z. B. Phillips and James H. Doyle and their heirs forever.

In Witness Whereof, N. S. Brown, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed, at Nashville, on the 27 day of April in the Year of our Lord One Thousand [fol. 519] Eight Hundred and Forty-8 and of the Independence of the United States the 72nd.

By the Governor: N. S. Brown. W. B. A. Ramsey,
Secretary of State.

State of Tennessee

No. 15368

To All To Whom These Presents Shall Come, Greeting:

I Know Ye, That for and in consideration of the sum of the fees of office, paid into the office of the entrytaker of Dyer County, and entered on the 1st day of September, 1849, pursuant to the provisions of an Act of the General Assembly of said State, passed 2d day of November, 1847, by No. 556, there is granted by the said State of Tennessee, unto Isaac Sampson a certain tract or parcel of land, containing 1000 acres by survey, bearing date the 10 day of March, 1856, lying in said county, Range 11, Section 2.

On the north side of Obion River beginning at a stake on the east bank of a small lake on the south boundary of Martin Armstrong's 5000-acre grant No. 96 the N. W. C. of S. McDavid's 197-acre entry No. 500, runs west with Armstrong's line 100 poles to a stake, the corner of McLemore and Terrill's 1436 acres, then with their line south 40 poles south 30 west 100 poles, south 40 west 60 poles, south 67 degrees west 60 poles, wouth 72 degrees west 200 poles to a stake, the N. E. C. of Phillips and Doyle's 376 acres, then south with their line 104 poles to a stake, their S. E. C., then with their line west 240 poles north 35 poles west 200 poles to their S. W. C. continuing west 14 poles to 2 small willows, and — the N. E. C. of Isaac Bracken's 53½ acres, then south with his east boundary 60 poles to the middle of the channel of Obion River, then up the same as it meanders south 62 degrees east 106 poles south 54 degrees east 91 poles due east 194 poles north 71 degrees east 166 poles north 60 degrees east 220 poles to a stake McDavid's S. W. C., then with his west line north 40 poles to a stake on the east bank of the small lake and with the meanders of the same north 75 degrees east 26 poles north 44 degrees east 18 poles north 70 degrees east 52 poles [fol. 521] north 55 degrees east 38 poles north 62 poles north 25 degrees east 100 poles, and due north 60 poles to the beginning.

With the hereditaments and appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Isaac Sampson and his heirs forever.

In Witness Whereof, Andrew Johnson, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed, at Nashville, on the 1 day of April in the year of Our Lord, One Thousand Eight Hundred and 56 and of the Independence of the United States, the 80.

By the Governor: Andrew Johnson. F. N. W. Burton, Secretary of State.

[fol. 522]

TENNESSEE EXHIBIT No. 10

State of Tennessee

No. 5663

To All To Whom These Presents Shall Come, Greeting:

Know Ye, That by virtue of Entry No. 43 dated 22 December, 1838, made in the name of John Branch and A. W. O. Totten, founded on C. W. T. Warrant No. 7054 issued to David Ross for 795 acres Survey bearing date 20th October, 1842, there is granted by the said State of Tennessee, unto G. A. Connally and T. D. Connally and Brother a certain tract or parcel of land, containing 200 acres situated, lying and being in the County of Dyer Ranges 10 and 11, Section 2 on the Bank of the Mississippi River

Beginning at a stake and small cottonwood pointers on the bank of said river where the south boundary line of John Terrill's 1436 acre entry strikes the River; then down said river as it meanders. South 15 degrees east 24 poles south 25 degrees east 64 poles, south 3 degrees west 50 poles, south 18 degrees west 20 poles south 7 degrees west 26 poles, south 16 degrees west 44 poles in all 228 poles to 2 small willows and pointers standing on the bank of the Mississippi River immediately at the mouth of the Obion River; then east 174 poles to a stake and willow marked as a pointer standing 36 poles north of said stake; then north 189 poles to 2 boxelders and pointers in the south boundary line of John Terrill's 1436 acre entry; then north 77 degrees west with said Terrill's line 188 poles to the beginning

with the hereditaments and appurtenances, to have and to hold the said tract or parcel of land, with its appurtenances, to the said G. A. and T. D. Connally and Brother and their heirs forever.

In Witness Whereof, N. S. Brown, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed, at Nashville on the 15 day of October in the year of our Lord one thousand eight hundred and 48 and of the Independence of the United States the 73rd.

By the Governor: N. S. Brown. W. B. A. Ramsey,
Secretary.

[fol. 523]

TENNESSEE EXHIBIT No. 11

STATE OF TENNESSEE

No. 16093

Recorded June 11, 1867

To All To Whom These Presents Shall Come, Greeting:

Know Ye, That in consideration of the fees of office incident hereto, which have been paid, there is granted by the said State of Tennessee, unto Charles C. Moss, a certain tract or parcel of land, containing three thousand acres by survey bearing date the 10 and 12th days of November, 1866, lying in Dyer County.

Situated on the cut off island, lying south and west of the south and west banks of the old channel of the Mississippi River and south and west of the Obion River, which now runs in said old channel of the Mississippi River in the 13th surveyor's district, 10th and 11th Ranges and 2d Section; Beginning at the edge of low water mark, in the right hand side of said river or old channel of the Mississippi as it descends to where it empties into the present Mississippi River at a point due west of a sycamore marked J. M. standing in the left hand bank of said river, or old channel, just below the mouth of the Bostick slough, running thence west passing a marked and blazed willow not far from low water mark 910 poles to a stake due south of Morroe Mitchell's corner mentioned below, thence north passing two small maples, and four cotton-

woods one marked M. Morroe Mitchell's corner—running still north passing another corner of Mitchell's, a dead cottonwood marked M and a sycamore and cottonwood, as pointers standing on the south bank of said old channel of the Mississippi river at 266 poles from his other corner still thence north in all 586 poles to a stake in the old channel of the Mississippi River, thence south 30 degrees east 240 poles to a willow with 5 prongs, on the south side of Obion [fol. 524] river and in the old channel of near low water mark, and due south of the right hand bank of the Obion River where it empties into said old channel of the Mississippi river, thence due east 5 poles to the edge of low water mark, thence with the edge of low water mark and down the Obion River or old channel of the Mississippi River as its meanders and descends to empty into the present Mississippi—in all 1280 poles to the beginning. with the hereditaments and appurtenances, to have and to hold the said Tract or Parcel of Land, with its appurtenances, to the said Charles C. Moss and his heirs forever.

In Witness Whereof, I, Wm. G. Brownlow, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed, at Nashville, on the 7th day of June in the year of our Lord 1867, and of the Independence of the United States, the Ninety-first.

By the Governor: Wm. G. Brownlow. A. J. Fletcher,
Secretary.

[fol. 525]

TENNESSEE EXHIBIT No. 12

STATE OF TENNESSEE

No. 4502

To All To Whom These Presents Shall Come, Greeting:

Know Ye, That by virtue of Entry No. 37 in Dyer County made in the name of William B. Jones for 600 acres founded on C. W. T. Warrant No. 3676 issued to the heirs of Thos. & Rob-Kings for 600 acres Survey being dated 20th Dec. 1838.

There is granted by the s^r: State of Tennessee, unto John Williams, assignee originally of heirs of Thos. &

Rob King a certain tract or parcel of land containing six hundred acres, situated, lying and being in the County of Dyer on the bank of the Mississippi River in Range Ten, Section Two—Beginning at a cottonwood on the bank of said River, the southwest or lower corner of a 416 acre entry in the name of Isaac Mitchell, then down said river with its meanders south 55 degrees east 400 poles to a willow marked B with cottonwood pointers. Then East 364 poles to a stake cottonwood pointers. Then north 238 poles to a cottonwood. Then west 684 poles to the beginning, including and excluding two 43 acre entries each in the name of Wm. Stephens, also including and excluding 22-2/9 acres in the name of M. W. Cammell, also including and excluding 60 acre part of an entry in the name of John Wynn for 90 acres.

With the hereditaments and appurtenances. To have and to hold the said tract or parcel of land with its appurtenances to the said John Williams and his heirs forever. In witness whereof, James K. Polk, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed at Nashville on the 29 day of September in the year of our Lord one thousand eight hundred and forty and of the independence of the United States, the sixty-5.

By the Governor, James K. Polk. John S. Young,
Secretary.

[fol. 526]

TENNESSEE EXHIBIT No. 13

STATE OF TENNESSEE

No. 4503

To All To Whom These Presents Shall Come, Greeting:

Know Ye. That by virtue of Entry No. 38 in Dyer County made in the name of Wm. B. Jones for 456 acres founded on C. W. T. Warrant No. 2871 issued to Thomas Shute for 456 acres, survey bearing date 15th Nov. 1838.

There is Granted by the said State of Tennessee, unto John Williams, assignee originally of Thomas Shute, a certain tract or parcel of land containing four-hundred and fifty-six acres, situated, lying and being in the County

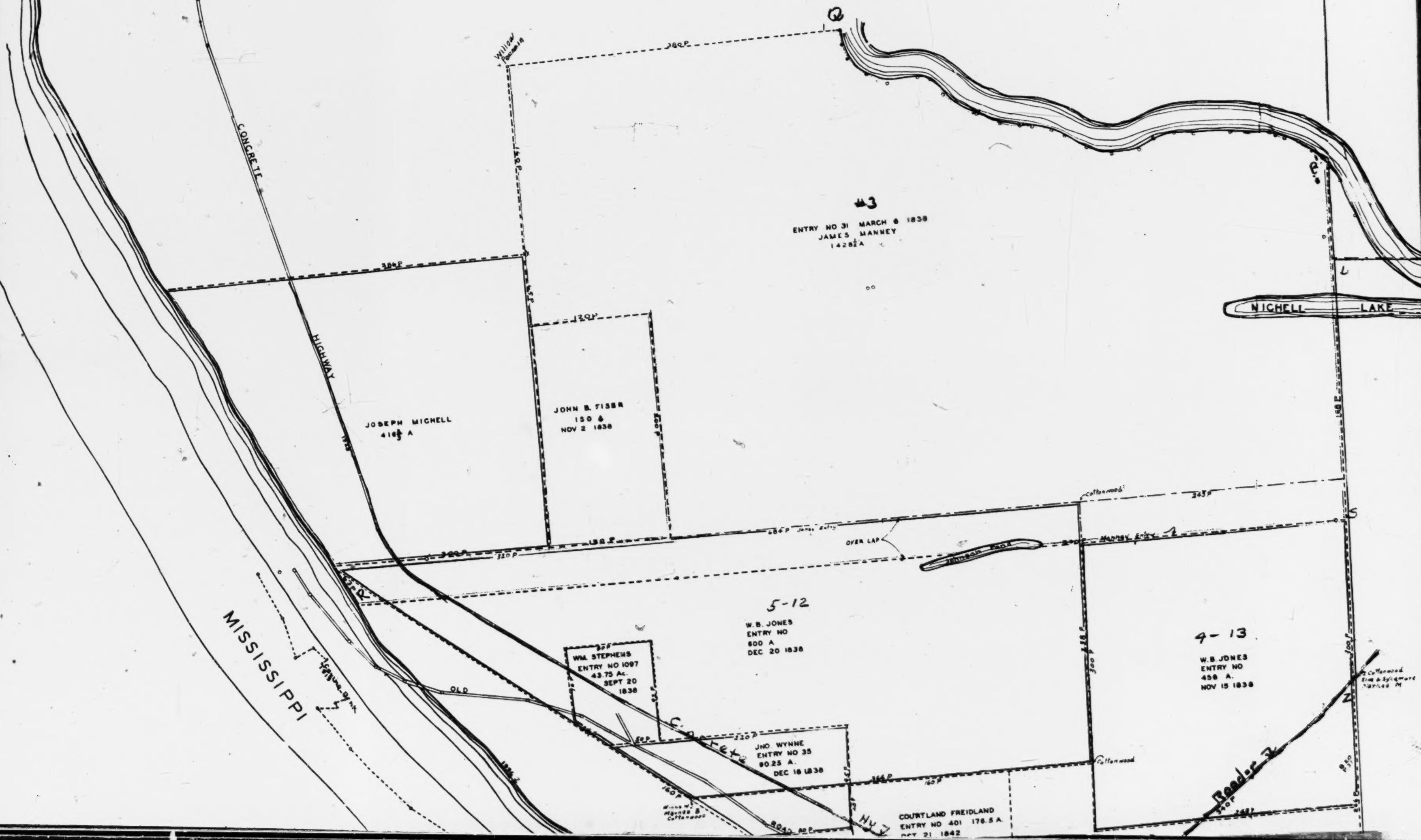
of Dyer in the Mississippi Bottom in Range Ten, Section Two, Beginning at a cottonwood, the northeast corner of an entry in the name of W. B. Jones for 600 acres, running south with the east boundary line of said 600-acre entry 300 poles to a cottonwood and cottonwood pointers. Then east 243 poles to a stake. Then north 300 poles to a cottonwood, then west 243 poles to the beginning.

With the hereditaments and appurtenances. To have and to hold the said tract or parcel of land with its appurtenances to the said John Williams and his heirs forever. In witness whereof, James K. Polk, Governor of the State of Tennessee, hath hereunto set his hand and caused the Great Seal of the State to be affixed at Nashville on the 29th day of September in the year of our Lord one thousand eight hundred and forty and of the Independence of the United States, the sixty-5.

By the Governor, James K. Polk. John S. Young,
Secretary.

(Here follow 2 photolithographs, side folios 527-528.)

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99 A

MARTIN ARMSTRONG
5000 AC GRANT NO 36

435

250 P

MARY ANNE ELIXABERTH
LOT NO 4
500 ft 4

JOS A EVANS
LOT NO 3
801 AV

20

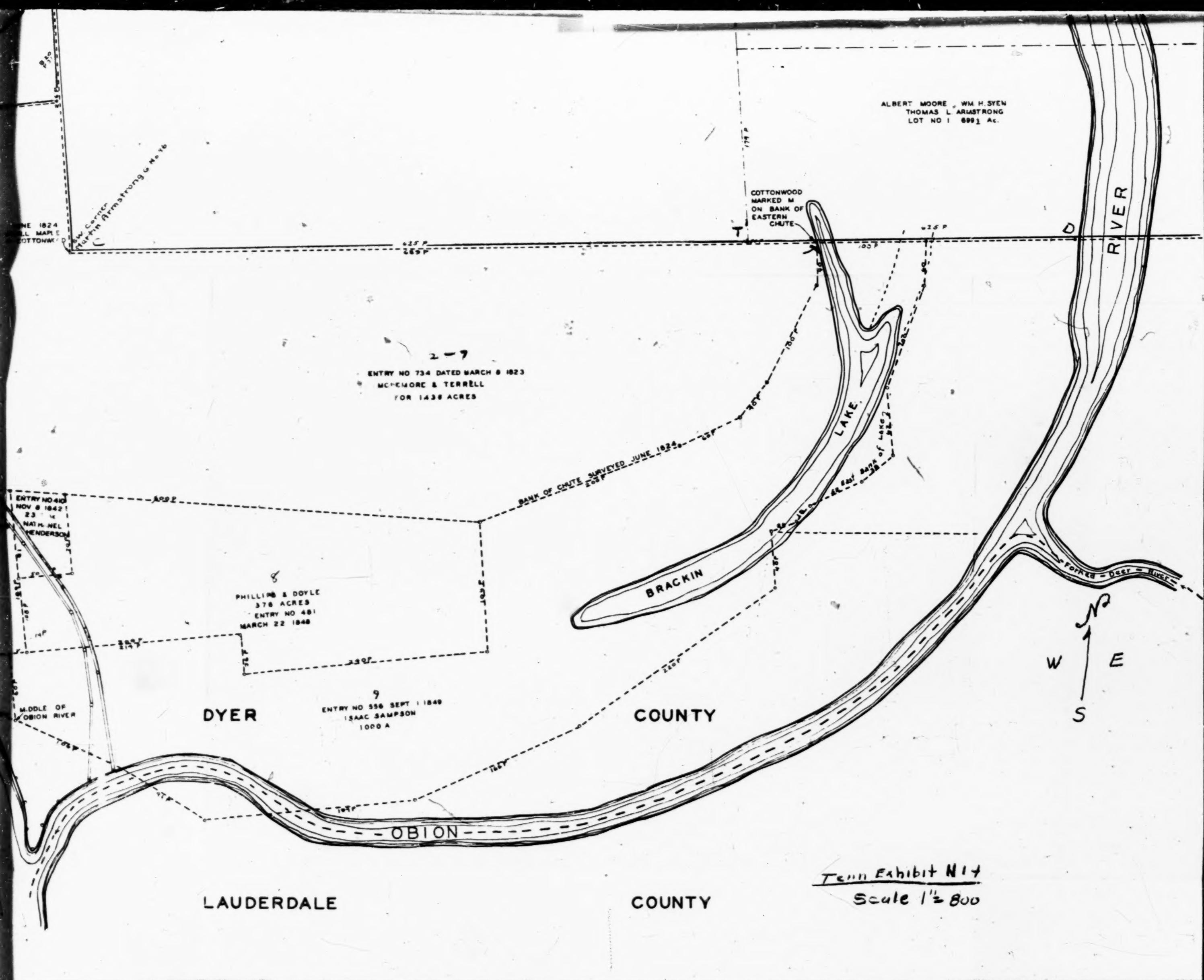
MARTIN ARMSTRONG GRANT NO 98
FOR 5000 ACRES

JOHN B. ARMSTRONG
LOT NO 2
400 i Ac

10

ALBERT MOORE WM. H. SYER
THOMAS L. ARMSTRONG





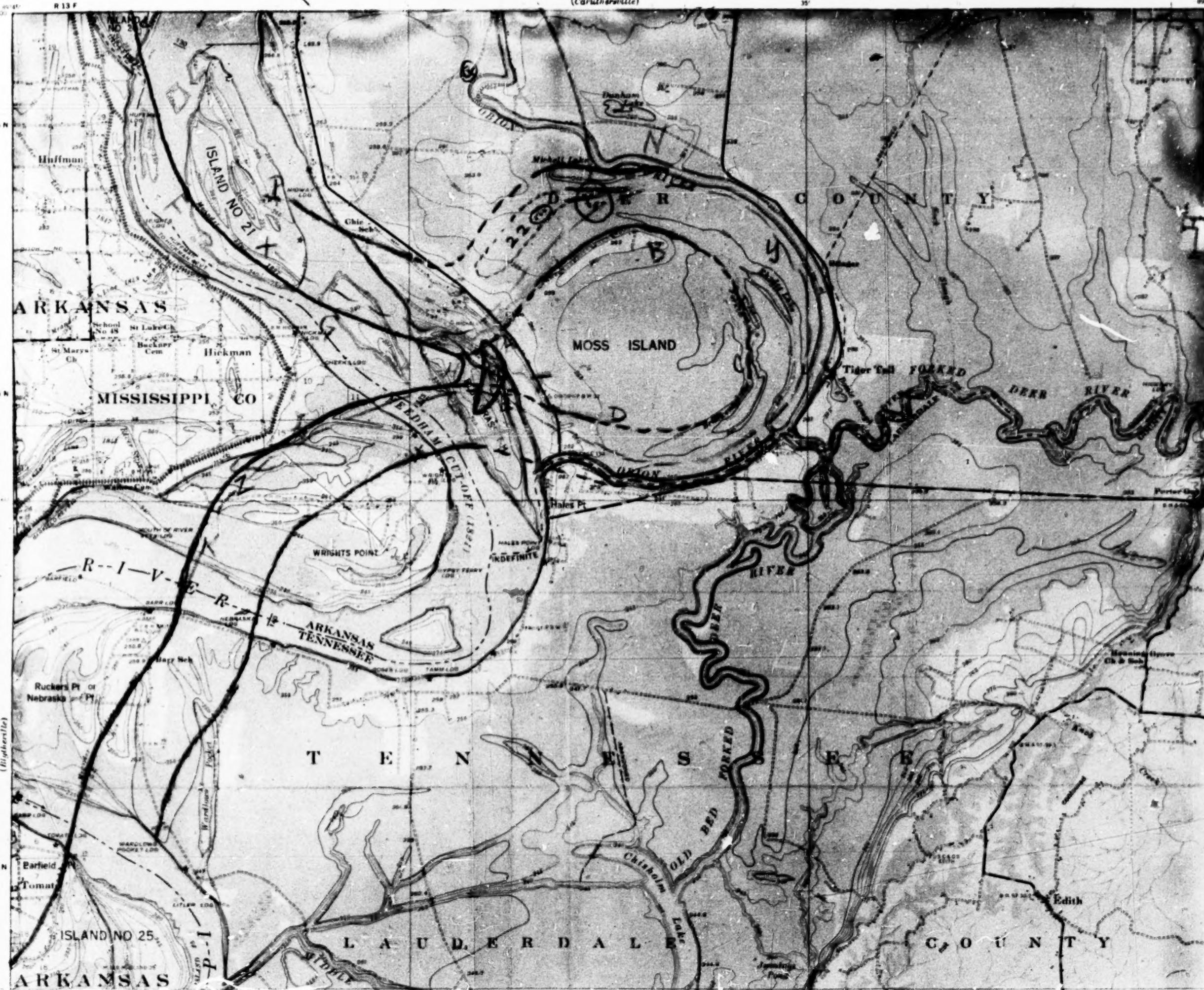
3 dots are
3 traps cut.

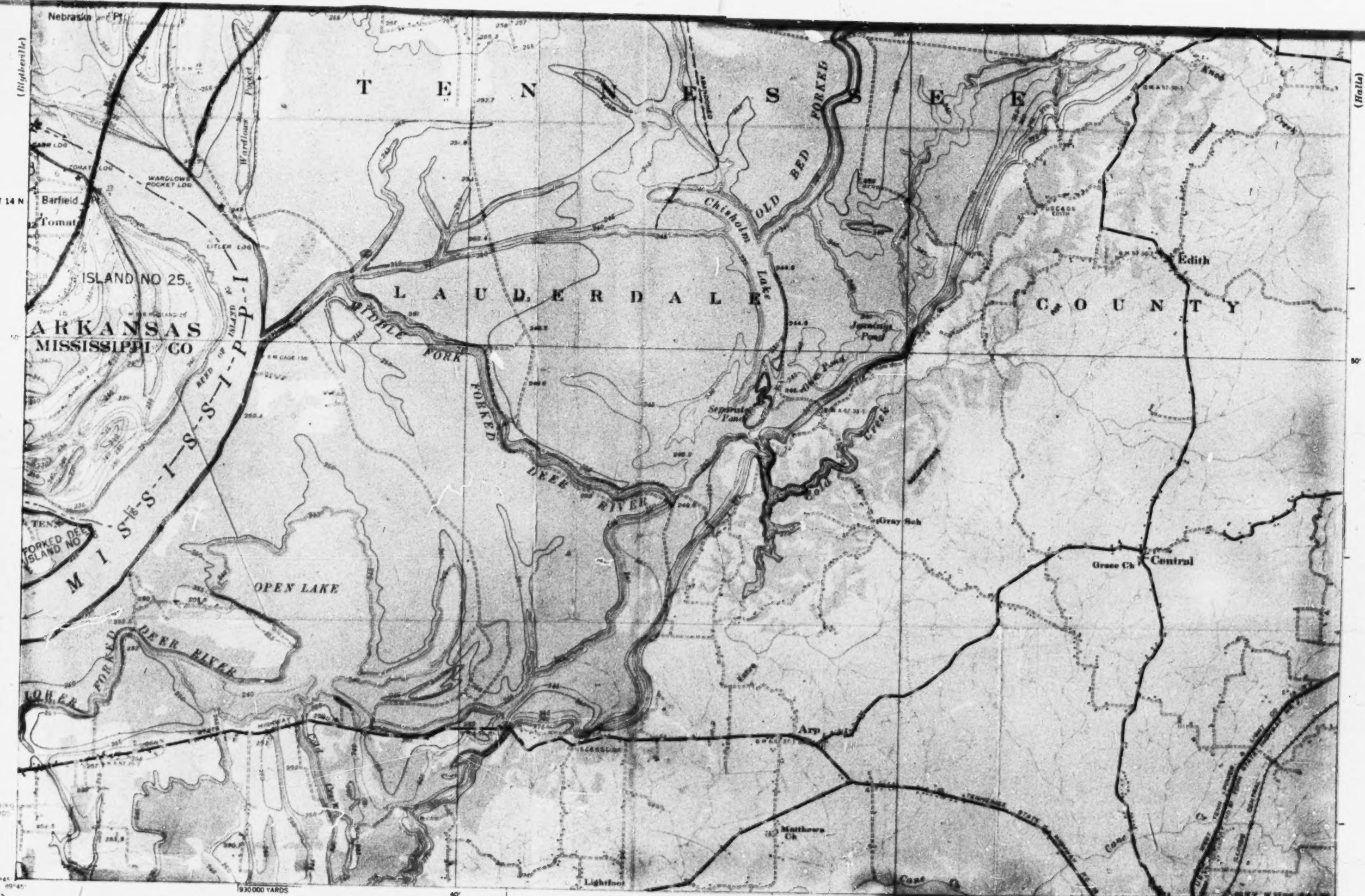
TENN. EXHIBIT 25

2622:4750:/99

ARKANSAS-TENNESSEE
HALES POINT QUADRANGLE
GRID ZONE "C"

WAR DEPARTMENT
CORPS OF ENGINEERS





Prepared under the direction of the President, Mississippi River Commission.
 Horizontal control by Mississippi River Commission and Corps of Engineers,
 U. S. Army, Memphis District.
 Vertical control by Mississippi River Commission and Corps of Engineers,
 U. S. Army, Memphis District.
 Topography by Corps of Engineers, U. S. Army, Memphis District, 1930.
 Revised by Mississippi River Commission 1932-33.
 Political boundaries are shown according to best available information
 and are subject to change except where established by court decision.
 Work under Flood Control Act as of January, 1933.
 Polyconic Projection, North American Datum.

Datum is mean gulf level at Biloxi, Mississippi. Elevations differ from mean sea level elevations as determined by the U. S. Coast and Geodetic Survey by small fractions of a foot. Persons interested may secure elevations of bench marks as determined by the latest U. S. C. & G. S. adjustment by applying to the U. S. Coast and Geodetic Survey.
 FIVE THOUSAND YARD GRID COMPUTED FROM GRID SYSTEM FOR PROGRESSIVE MAPS
 IN THE U. S. ZONE U. S. C. & G. S. SPECIAL PUBLICATION NO. 59

ENGINEER REPRODUCTION PLANT, U. S. ARMY, WASHINGTON, D. C. 9377
 1933

LEGEND

| | | | |
|--------------------|-----------|-----------------------------|--------|
| Precise bench mark | P.M. | shown on previous sheets at | P.M. |
| Bench mark | B.M. | shown on previous sheets as | B.M. |
| Levee | Levee | Levee mile post | L.M.P. |
| Retards and dikes | Retards | Levee station | L.S. |
| Revetment | Revetment | Townhead | T.H. |
| U. S. Gage | | | |

Distances below Cairo gage are shown at 5 mile intervals.
 Distances above mouths of Obion and Forked Deer Rivers
 are shown at 5 mile intervals.

HARD IMPERVIOUSLY SURFACED ROADS
 OTHER MAIN TRAVELED ROADS, GRAVEL

HALES POINT ARK.-TENN.
 528

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[fol. 529] TENNESSEE EXHIBIT No. 40

Copy of Assessment Roll of C. C. Moss in Civil District
Eleven, Dyer County, Tennessee

1870

C. C. Moss. Assessed with 1393 acres. No description.

1871

C. C. Moss. Assessed with 1393 acres. No description.

1872

C. C. Moss. Assessed with 1393 acres. No description.

1873

C. C. Moss. Assessed with 4596 acres. No description given.

1874

C. C. Moss. Assessed with 4596 acres. Description as follows: "On Cutoff Island and Old Channel".

1875

C. C. Moss. Assessed with 4596 acres. No description given.

1876

C. C. Moss. Assessed with 4596 acres. No description given.

1877

C. C. Moss. Assessed with 4596 acres. No description given.

1878

C. C. Moss. Assessed with 3000 acres. Description as follows: "On Cutoff Island, known as the Armstrong Tract."

1879

C. C. Moss. Assessed with 3000 acres. Description as [fol. 530] follows: "On Cutoff Island, known as the Armstrong Tract."

1880

C. C. Moss. Assessed with 3000 acres. Description as follows: "On Cutoff Island, known as the Armstrong Tract."

1881

No assessment against C. C. Moss in tax duplicate.

1882

Mrs. A. E. Moss. Assessed with 2000 acres, bounded as follows: "N. by Obion River, S. —, E. by Obion River, W. by Michell."

1883

Mrs. A. E. Moss. Assessed with 2000 acres, bounded as follows: "N. by Obion River, S. by Fentress, E. by Obion River, W. by Michell."

1884

Mrs. A. E. Moss. Assessed with 2000 acres, bounded as follows: "N. by Obion River, S. by Henry, E. by Obion River, W. by Michell."

1885

Mrs. A. E. Moss. Assessed with 2000 acres, bounded as follows: "N. by Obion River, S. —, E. by Obion River, W. by Michell."

1886

Mrs. A. E. Moss. Assessed with 2000 acres, bounded as follows: "N. by Obion River, S. by Mississippi River, E. by Obion River, W. by Michell."

[fol. 531]

1887

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff Island."

1888

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff Island."

1889

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "Bounded on N. and S. by Needham Cutoff Island, E. by Old Channel, W. by Michell."

1890

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "Bounded on N. and S. by Needham Cutoff Island, E. by Old Channel, W. by Michell."

1891

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1892

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1893

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1894

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

[fol. 532]

1895

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1896

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1897

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1898

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1899

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel."

1900

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

1901

Assessment roll omits Mrs. Moss' land entirely.

1902

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

[fol. 533]

1903

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

1904

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

1905

No assessment roll to be found.

1906

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

1907

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

1908

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell."

1909

Heirs Mrs. A. E. Moss. Assessed with 2000 acres, bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell.

[fol. 534]

1910

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell.

1911

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell.

1912

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell.

1913

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell.

1914

Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell.

1915

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell.

1916

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell.

[fol. 535]

1917

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell.

1918

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell.

1919

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell.

1920

Heirs Mrs. A. E. Moss. Assessed with 2000 acres. Bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell.

1921

Assessment roll for this year can not be found.

1922

A. E. Menzies, et al. Assessed 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell."

1923

A. E. Menzies, et al. Assessed 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell."

[fol. 536]

1924

A. E. Menzies, et al. Assessed 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell."

1925

B. L. Hendrix. Assessed 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell."

1926

B. L. Hendrix. Assessed 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell."

1927

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1928

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1929

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1930

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion [fol. 537] River, W. by Chic Farm."

1931

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1932

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1933

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1934

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

1935

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm."

[fol. 538] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County do hereby certify that the foregoing is a true, full and perfect copy of the assessment roll or tax duplicates with reference to the assessment of the tract of land therein mentioned as the same appear from the records in my office.

Witness my hand and seal of office, at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, County and Probate Judge of the State and County aforesaid and presiding judge thereof, do hereby certify that J. C. Prichard, whose genuine signature appears above, was at the time of making the same the duly elected, qualified, commissioned and acting County Court Clerk of the County Court of Dyer County, that he is the proper official to certify the said assessment roll and that his attestation thereto is in due form.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

Robert D. Jones, Judge. (Seal.)

[fol. 539] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County hereby certify that R. D. Jones, whose genuine signature is hereto attached, was at the time of signing the same the duly elected, commissioned, qualified and acting County and Probate Judge of the County of Dyer, State of Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11 day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

[fol. 540] TENNESSEE EXHIBIT 41

List of Tax Payments, C. C. Moss in Civil District Eleven,
Dyer County, Tennessee

1874

C. C. Moss. Assessed with 4596 acres. Description as follows: "On Cutoff Island and Old Channel." Taxes paid February 26, 1876.

1875

C. C. Moss. Assessed with 4596 acres. No description given. Taxes paid May 6, 1876.

1876

C. C. Moss. Assessed with 4596 acres. No description given. Taxes paid November 20, 1877.

1878

C. C. Moss. Assessed with 3000 acres. Description as follows: "On Cutoff Island, known as the Armstrong Tract." Taxes paid January 30, 1879.

1879

C. C. Moss. Assessed with 3000 acres. Description as follows: "On Cutoff Island, known as the Armstrong Tract." Taxes paid August 28, 1880.

1880

C. C. Moss. Assessed with 3000 acres. Description as follows: "On Cutoff Island, known as the Armstrong Tract." Taxes marked paid, no date shown.

[fol. 541]

1888

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff Island." Taxes paid January 26, 1889.

1889

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "Bounded on N. and S. by Needham Cutoff Island, E. by Old Channel, W. by Michell." Taxes paid January 31, 1890.

1890

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "Bounded on N. and S. by Needham Cutoff Island, E. by Old Channel, W. by Michell." Taxes marked paid January 20, 1891.

1891

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on old Channel." Taxes marked paid January 25, 1892.

1892

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel." Taxes marked paid January 21, 1893.

1893

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel." Taxes marked paid February 5, 1894.

[fol. 542]

1894

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel." Taxes marked paid December 31, 1895.

1895

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel." Taxes marked paid February 8, 1896.

1898

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel." Taxes marked paid January 31, 1899.

1899

Mrs. A. E. Moss. Assessed with 2000 acres. Description: "Needham Cutoff on Old Channel." Taxes marked paid January 22, 1900.

1902

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell." Taxes marked paid November 10, 1902.

1903

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell." Taxes marked paid February 18, 1904.

[fol. 543]

1904

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell." Taxes marked paid February 21, 1905.

1905

No assessment roll to be found. Tax Books proper show assessment under 1900 description to Mrs. Moss, 2000 acres. Taxes paid February 2, 1906.

1908

Mrs. A. E. Moss. Assessed with 2000 acres. Described as follows: "N. by Old Channel, S. by Michell, E. by Old Channel, W. by Michell." Taxes marked paid February 24, 1909.

1909

Heirs Mrs. A. E. Moss. Assessed with 2000 acres, bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell. Taxes marked paid February 28, 1910.

1910

Heirs Mrs. A. E. Moss. Assessed with 2000 acres, bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell. Taxes marked paid February 27, 1911.

1913

Heirs Mrs. A. E. Moss. Assessed with 2000 acres, bounded on N. by Obion River, S. by Michell, E. by Obion River and W. by Michell. Taxes marked paid February 28, 1914.

[fol. 544]

1917

Heirs Mrs. A. E. Moss. Assessed with 2000 acres, bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell. Taxes marked paid February 26, 1918.

1919

Heirs Mrs. A. E. Moss. Assessed with 2000 acres, bounded on N. by Obion River, S. by Michell, E. by Obion River and on W. by Michell. Taxes marked paid February 28, 1920.

1922

A. E. Menzies, et al. Assessed 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell." Taxes marked paid April 13, 1923.

1923

A. E. Menzies, et al. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell." Taxes marked paid February 29, 1924.

1924

A. E. Menzies, et al. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell." Taxes marked paid February 13, 1925.

[fol. 545]

1925

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell." Taxes marked paid February 27, 1926.

1926

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Michell, E. by Obion River, W. by Michell." Taxes marked paid, but no date given.

1927

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes paid April 27, 1928.

1928

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes paid April 30, 1929.

1929

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes marked paid January 31, 1931.

[fol. 546]

1930

B. L. Hendrix. Assessed with 3000 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes marked paid January 2, 1931.

1931

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes marked paid December 28, 1933.

1932

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes delinquent.

1933

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes delinquent.

1934

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes delinquent.

1935

B. L. Hendrix. Assessed with 3300 acres. Description as follows: "N. by Obion River, S. by Yancey, E. by Obion River, W. by Chic Farm." Taxes paid September 29, 1937.

[fol. 547] STATE OF TENNESSEE,
Dyer County:

I, Maggie White, County Trustee of said County and State aforesaid, do hereby certify that the above and foregoing is a full, true and correct excerpt from the tax collection books for the years above mentioned as the same appear of record in the records of my office. I further certify that the tax collection books for the years 1870, 1871, 1872, 1873, 1877, 1882-87, inclusive, 1896, 1897, 1900, 1906, 1907, 1911, 1912, 1914, 1915, 1916, 1918, 1920 and 1921 can not be found among the records in my office after diligent search therefor.

Witness my hand at office in Dyersburg, Tennessee, there being no seal of office, this the 11th day of August, 1938.

Maggie White, County Trustee. By H. D. Gannon,
D. T.

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, hereby certify that Maggie White, whose genuine signature is attached hereto, was at the time of making the same duly elected, qualified, commissioned and acting county trustee of Dyer County, Tennessee, that she is the proper official to certify to the attestation of the above records and that her attestation thereto is in due form.

Witness my hand and seal of office, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

[fol. 548] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, hereby certify that R. D. Jones, whose genuine signature is attached hereto, was at the time of signing the same the duly elected, commissioned, qualified and acting County and Probate Judge of the County of Dyer, State of Tennessee.

Witness my hand and seal of office at office, this the 11th day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

[fol. 549]

TENNESSEE EXHIBIT 42

STATE OF TENNESSEE:

This indenture made and entered into this 22 day of July, 1848, by and between Zacheas B. Phillips, Sheriff and Collector of the public taxes for the County of Dyer and State aforesaid of the one part and Joseph Michell of the same County and State of the other part witnesseth that as a circuit court held for the County of Dyer at the Court in the town of Dyersburg in said State on the 4th Monday of February, 1846, Zacheus B. Phillips Sheriff and Collector for said County of Dyer as aforesaid reported to said Court among others the following tracts or parcels of land lying and being in said County of Dyer and State of Tennessee as having been listed by the owners with the revenue commissioners of the 10th Civil District for taxes

for the year 1845 that the taxes thereon being still due and unpaid and the owners or claimants thereof having no goods or chattels within said County of Dyer on which said Sheriff and Collector could distrain for said taxes to-wit One tract of sixty-nine acres reported in the name of Harry Barnett lying in the 13th Surveyors district 11th Range and 2 section being a part of McLemore and Terrell Entry No. 734 on the cut off island (boundaries not known) also one other tract of land of fifty acres reported in the name of Nancy Obar lying in the 13th Surveyors District in the 11th Range and 2nd section being also a part of McLemore and Terrells entry No. 734 on the cut off island also one other tract containing fifty acres reported in the name of Sarah Singleton lying in the 13th Surveyors district 11th Range and 2nd section being a part of McLemore's and Terrells entry No. 734 on the cut off island and on said report being made as aforesaid it was ordered by the Court that the same [fol. 550] should be received and recorded by the Clerk which was done accordingly whereupon it appearing to the Court that said several tracts of land lay in the county of Dyer aforesaid and had been listed for the taxes of the year 1845 it further appearing to the Court that said land was liable to taxes that the taxes thereon remaining due unpaid and that the owners or claimants thereof hath no good or chattels within said County on which said Sheriff and Collector could distrain for the same a judgment was entered upon the 23rd day of February 1846 in said court against said tracts of land in the name of the State for the sums annexed to each to-wit, taxes costs and charges on Harry Barnett's sixty-nine acres \$4.63 on Nancy Obar's fifty acres \$4.33 $\frac{1}{2}$ cents and on Sarah Singleton's fifty acres \$4.33 $\frac{1}{2}$ cents being the several amounts of taxes, costs and charges due on said land for said year 1845 and it was ordered by the Court that said several tracts of land or so much of them as should be sufficient to satisfy the taxes thereto annexed be sold as the law directs and thereupon by order of said court an order for the sale of said land was issued from the clerk's office of said court on the 7th of April 1846, commanding said Sheriff and Collector to expose said land to sale or so much thereof as should be sufficient to satisfy the taxes, costs and charges severally due thereon and the said Sheriff and Collector after said order of sale came into his hands caused the same to be duly and properly advertised in a public newspaper printed in the

town of Trenton in said State and the nearest newspaper printed to where said land lies said advertisement being inserted three weeks successively and one each week forty [fol. 551] days before the day of sale and the said Sheriff and Collector on the first Monday in July 1846 and succeeding day at the Court house door in the town of Dyersburg aforesaid in pursuance of said advertisement aforesaid expose said tracts of land to sale in the manner directed by law when the said Joseph Michell become the purchaser of each of said tracts of land he offering to pay the costs and charges due on each of said tracts respectively for the whole of said tract severally and no person offering to pay the taxes and charges on either or any of said tracts of land for a less number of acres then the whole of each tract the same was then and their severally one by one struck off and sold to the said Joseph Michell and whereas afterwards to-wit, at the February term 1847 of said Dyer Circuit Court the said Zacheus B. Phillips still being Sheriff and Collector of the public taxes for the County of Dyer in said State reported to said Court among others the following tracts or parcels of land lying and being in said County of Dyer and State aforesaid as having been duly and properly listed for the taxes for the year 1846 that the taxes thereon remain due and unpaid that the owners or claimants thereof have no goods or chattels within said county on which said Sheriff and Collector could distrain for said taxes to-wit Harvey Barnett sixty nine acres lying in the 11th Civil District 13th Surveyors district 11th range and 2nd section being a part of McLemore and Terrells entry No. 734 on the cut off island (and the same 69 acres in the name Harvey Barnett heretofore mentioned in this deed as being sold for the taxes of the 1845 to said Michell) also one tract of land of fifty acres reported and sold in the name of Nancy Obar lying in the 11th Civil District 13th Surveyors district 11th range and 2nd Section being part of McLemore and Terrell [fol. 552] entry No. 734 on the cut off island (and the same tract described before in this deed as sold for taxes of 1845 to said Michell) also one other tract of fifty acres reported and sold in the name of Sarah Singleton lying in the 11th civil district of said county in the 13th Surveyors district 11th range and 2nd section being a part of McLemores and Terrells entry No. 734 on the cut off island and the same tract before described, in this deed as being sold in the name of Sarah Singleton for the taxes for the year 1845) and

on said report being made as aforesaid it was ordered by the Court that the same should be received and recorded by the clerk which was done accordingly whereupon it appearing to the Court that said several tracts of land lay in the County of Dyer aforesaid and had been listed with the revenue commissioners for the taxes of year 1846 it further appearing to the Court that said several tracts of land was liable to taxes that the taxes thereon remained due and unpaid and that the owners or claimants thereof had no goods or chattels in said County of Dyer on which said Sheriff and Collector could distrain for said taxes a judgment was entered upon the 8th day of February 1847 in said court against said several tracts of land in the name of the State for the sum annexed to each being the amount of taxes costs and charges due respectively thereon to wit: The amount of taxes costs and charges due on the sixty nine acres reported in the name of Harvey Barnett for the year 1846 is \$4.85/100 the amount of taxes costs and charges due on the fifty acres reported in the name of Nancy Obar for the year 1846 is \$4.45 cents the amount due on the fifty acres reported in the name of Sarah Singleton for the year 1846 is \$4.45 cents and it was ordered by the Court that said several tracts of land or so much thereof as shall be [fol. 553] sufficient of each of said tracts to satisfy the taxes costs and charges due thereon be sold as the law directs and therefore by order of said court an order for the sale of said land was issued from the clerks office of said court to wit: On the 10th day of March 1847 commanding said sheriff and collector of public taxes for said county to expose said land to sale or so much thereof as would be sufficient to satisfy the taxes costs and charges on each said tract of land respectively and the said sheriff and collector after said order of sale came to his hands caused said lands to be duly and properly advertised in a public newspaper printed in the town of Trenton in said State it being the nearest paper printed to said lands that would publish said sale said advertisement being inserted in said newspaper three weeks successively and one each week forty days before the said day of sale and the said Sheriff and collector on the first Monday in July 1847 and succeeding day at the Courthouse door in the town of Dyerburg aforesaid in pursuance of said advertisement exposed each of said tracts of land to sale in the manner directed by law and the said Joseph Michell bid for the same and offered to

pay the taxes costs and charges due on each of said several tracts for the whole number of acres of land contained in each of said tracts and no person offering to pay the taxes costs and charges due on either of said tracts for a less number of acres then the whole tract the said several tracts one by one was then and there struck off and sold to the said Joseph Michell and the said several tracts of land or any or either of them not having been redeemed from either of the above and before mentioned sale and the said Joseph Michell requiring a deed for the same—Now therefore I Zacheus B. Phillips sheriff and collector of the public taxes [fol. 554] for the said county of Dyer and State aforesaid by virtue of the before recited proceedings by virtue of the power vested in me by law and for and in consideration of the sum of Twenty seven dollars three cents to me in hand paid by said Joseph Michell at time of the sale aforesaid being the whole amount of taxes costs and charges due on said several tracts of land for said years 1845 and 1846. as herein before set out and described do hereby bargain and sell transfer and convey all and every part of each of the before mentioned and described tracts of land with the appurtenances thereto belonging or in any wise appertaining to him the said Joseph Michell his heirs and assigns forever to have and to hold the same and I hereby warrant the title of said several tracts of land as fully as I am authorized and empowered by law as sheriff and collector as aforesaid to do but no further. In witness whereof I Zacheus B. Phillips Sheriff and collector of the public taxes for the county of Dyer and State of Tennessee aforesaid have hereunto set my hand and affixed my seal this the 22nd day of July A. D. 1848.

Z. B. Phillips Sheriff and col of the Public taxes for
Dyer Cty. (Seal.)

STATE OF TENNESSEE,
Dyer County:

Personally appeared before me James H. Doyle clerk of the county court of said county the within named Z. B. Phillips, Sheriff and Collector of the Public Taxes of said county of Dyer he being the within named bargainer with whom I am personally acquainted and who acknowledged the execution of the within deed of conveyance as sheriff

and collector as aforesaid for the purposes therein contained. Witness my hand at office this 3rd day of August 1848.

James H. Doyle, Ck.

[fol. 555] STATE OF TENNESSEE,
Dyer County:

I, Aultie Mulherin, County Register for the State and County aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of a tax deed of Zacheus B. Phillips to Joseph Michell of date July 22, 1848, as the same appears in Book F, p. 598 of the records in my office.

This the 11th day of August, 1938, witness my hand, there being no seal of office.

Aultie Mulherin, County Register.

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs. Aultie Mulherin, whose genuine signature appears above, was at the time of signing the same the duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

[fol. 556] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the — day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

This indenture made and entered into this the 22nd day of July 1874 between Thomas H. Benton, collector of the public taxes of the County of Dyer and State of Tennessee, of the 1st part and J. W. Henry of the 2nd part, witnesseth:

That, Whereas heretofore towit: At a Circuit Court begun and held for the County of Dyer, at the Court house in the town of Dyersburg, in said State on the 1st Monday in February 1873 T. H. Benton, collector of the public taxes for Dyer County, Tennessee for the year 1872, returned to Court his report of the several tracts of land town lots and parts of town lots, assessed for the public taxes of the year 1872, and among others he reported the following tract or parcel of land lying and being in said county and State, towit: M. V. Dickerson one tract of 326 acres in civil district No. 11, which is bounded and described as follows: It being No. 1 in the division between the heirs of R. Singleton of the McLemore and Terrell 1467 acres on the cutoff island in Dyer County, Tennessee, Beginning on Wm. Hunt's southwest corner of Lot No. 7, running thence south 32 deg. east forty poles to a stake, thence 87 deg. east 855 poles to a stake on the bank of the eastern shoot of the Old Channel, thence North 40 poles to a stake on Martin Armstrong's south boundary line, thence with his line 689 poles to his southwest corner, and the southeast corner of the said Wm. Hunt's lot No. 7, thence west to the beginning, valued at \$675, taxes \$5.36, costs \$4.00.

He also reported that the public taxes on said tract of land for the year 1872 remained due and unpaid and that the owner or claimant thereof had no goods or chattels within said county on which he could distrain for said taxes which [fol. 558] report was received by the Court, and ordered to be received which was accordingly done, whereupon, it appeared to the court that said land was lying in the county of Dyer in the 11th Civil District in the 13th surveyor's district, and that it had been assessed for the public taxes for the year 1872, and that the same was liable to public taxes which remained due and unpaid, and that the owner or claimant thereof had no goods or chattels within said county on which said collector could distrain for said taxes, it was considered by the court that judgment be and was then on the 4th day of February 1873 rendered against said tract of land in the name of the State for the sum of

five dollars and thirty-six cents taxes and four dollars costs and charges, the same being due on the same for the taxes, costs, and charges, on said tract of land for the year 1872. It was further ordered, adjudged and decreed by the Court that said tract of land, or so much of the same as would be sufficient to satisfy the said taxes, costs, and charges due thereon for said year 1872. (The costs and charges were collector's fee \$1.00, clerk's fee \$1.50, and printer's fee \$1.50 in all \$4.00 on said tract) be condemned and sold as the law directed on the 1st Monday in July 1873, and succeeding day for the satisfaction of said taxes, costs and charges, and that an order of sale issue accordingly and thereupon by order of said court, an order for the sale of said land was issued from the clerk's office of said court on the 5th day of March 1873, which went in said collector's hands on the same day issued commanding said collector of public taxes for said county to expose said land to sale or so much thereof as would be sufficient to satisfy the taxes, costs and charges due thereon, and the said collector [fol. 559] after said order of sale came into his hands caused the same to be duly and properly advertised in Neal's State Gazette, a public newspaper printed in the Town of Dyersburg in said state, it being of general circulation, and printed in said county and said advertisement being inserted as the law directed in said paper and the collector in pursuance of said advertisement and order of sale in his hands as such collector on the 1st Monday in July 1873 and succeeding day, the taxes, costs, and charges still remaining due and unpaid exposed said tract of land to sale in the manner directed by law at the Courthouse door in the town of Dyersburg aforesaid and J. W. Henry bid for the same and offered to pay the taxes, costs and charges due thereon for the entire tract of land aforesaid and no person offering to pay said taxes, costs and charges, for a less number of acres, the same was then and there struck off and sold to the said J. W. Henry at and for said sum of nine dollars and thirty-six cents which he paid at the time and the said tract of land not having been redeemed within the time or manner pointed out by law, or any tender or offer thereof made, and the said J. W. Henry requiring a deed for the same—Now thereof I, T. H. Benton collector of the public taxes for the County of Dyer for the years 1872, & 1873, & 1874, by virtue of the before recited proceedings by virtue of the power in me vested by law and

for and in consideration of the sum of Nine dollars and thirty-six cents, the amount of the taxes, costs, and charges on said land to me paid by the said Henry at the time of sale as aforesaid, do hereby bargain, sell, transfer, and convey unto the said J. W. Henry his heirs and assigns forever all and every part of the aforesaid tract of land, [fol. 560] to hold the same himself, his heirs and assigns forever, and I hereby warrant and will forever defend the title of said land in as full and perfect a manner as I am authorized by law to do as collector aforesaid.

Witness my hand and seal as collector aforesaid.

T. H. Benton, The Tax Collector for Dyer County.
(Seal.)

STATE OF TENNESSEE,
Dyer County:

Personally appeared before me W. M. Watkins Clerk of the County Court of said County, T. H. Benton, tax collector of said county the bargainer with whom I am personally acquainted and who acknowledged the execution of the foregoing deed to be his act and for the purposes therein contained.

Witness my hand at office this the 21st day of July A. D. 1874.

W. M. Watkins, Clerk.

[fol. 561] STATE OF TENNESSEE,
Dyer County:

I, Aultie Mulherin, County Register for the State and County aforesaid, do hereby certify that the above and foregoing is a full, true and perfect copy of tax deed of Thomas H. Benton to J. W. Henry of date July 22, 1874, as the same appears in Book R., pp. 9-11 of the records in my office.

Witness my hand, there being no seal of office, on this the 11th day of August, 1938.

Aultie Mulherin, County Register.

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, Presiding Judge of the County and Probate Court of Dyer County, do hereby certify that Mrs.

Aultie Mulherin whose genuine signature appears above, was at the time of signing the same a duly elected, qualified and acting Register of Dyer County, that he is the proper official to make the attestation to said instrument and that his attestation is in due form.

Witness my hand and seal of office, at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

Robert D. Jones, County Judge. (Seal.)

[fol. 562] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, Clerk of the County Court of Dyer County, Tennessee, do hereby certify that R. D. Jones, whose genuine signature appears above, was at the time of making the same the duly elected, commissioned, qualified and acting Judge of the County and Probate Court of Dyer County, Tennessee.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 11th day of August, 1938.

J. C. Prichard, County Court Clerk. (Seal.)

[fol. 563] TENNESSEE EXHIBIT 44

Tabulation of Assessments on Certain Lands in Civil
District 11, Dyer County, Tennessee

1870

Heirs of Isaac Brackin. 3 tracts aggregating 456 acres.
No description.

M. V. Dickson. 335 acres. No description.

Parr & Sugg. 607 acres. No description.

Isaac Sampson, 3 tracts, 1000 acres, 725 acres, 2600 acres.
No description.

1871

Heirs of Isaac Brackin. 2 tracts, 200 acres, and 286 acres.
No description.

M. V. Dickson. 325 acres. No description.

Parr & Sugg. 607 acres. No description.

Isaac Sampson, 3 tracts, 1000 acres, 725 acres, 2600 acres.
No description.

1872

Heirs of Isaac Brackin. 488 acres. No description given.
 M. V. Dickson. 325 acres. No description given.
 Parr & Sugg. 607 acres. No description given.
 Isaac Sampson, 3 tracts, 1000 acres, 725 acres, 2600 acres.
 No description given.

1873

Isaac Brackin heirs. 488 acres. No description given.
 M. V. Dickson. 326 acres. No description given.
 Parr & Sugg. 488 acres bounded on the North by —, S. by Brackin, E. by Armstrong, W. by Mississippi Riv.
 Isaac Sampson. 3 tracts aggregating 4325 acres. No description.

[fol. 564]

1874

Isaac Brackin heirs. 488 acres. North by —, S. by Obion River, E. by Armstrong and W. by Miss. River.
 J. W. Henry. 326 acres described as follows: "Boundaries unknown, near L. M. Michell."
 Parr & Sugg. 607 acres. N. by —, S. by Brackin, E. by Armstrong, W. by Miss. River.
 Isaac Sampson. 4325 acres. Description unknown.

1875

Isaac Brackin heirs. 488 acres. North by Singleton, S. by Obion River, E. by Armstrong and W. by Miss. River.
 J. W. Henry. 326 acres. No description given.
 Parr & Sugg. 607 acres. North by Fentress, S. by Brackin, E. by Armstrong and W. by Miss. River.
 Isaac Sampson. — acres. Description unknown.

1876

Isaac Brackin heirs. 488 acres. No description given.
 J. W. Henry. 326 acres. No description given.
 Parr & Sugg. 607 acres. No description given.
 Isaac Sampson—Omitted from tax book.

1877

Isaac Brackin heirs. 488 acres. North by Singleton, S. by Obion River, E. by Armstrong and W. by Miss. River.
 J. W. Henry. 326 acres. No description given.

Parr & Sugg. 607 acres. North by Fentress, S. by Brackin, E. by Armstrong, W. by Miss. River.

Isaac Sampson. 4325 acres—Boundaries unknown.

[fol. 565]

1878

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson and Rainey, W. by Miss. River.

J. W. Henry. 326 acres. North by Fentress, S. by Sugg & Parr, E. by Obion River, W. by Miss. River.

Parr & Sugg. 1450 acres. North by Fentress, S. by Brackin, E. by Mann & Caruthers and W. by Miss. Riv.

Isaac Sampson. 4325 acres bounded on S. by Totten, no other description given.

1879

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson and Rainey, W. by Miss. River.

J. W. Henry. 326 acres. North by Fentress, S. by Michell, E. by Sugg & Parr, W. by Miss. River.

Parr & Sugg. 1450 acres. North by Fentress, S. by Brackin, E. by Caruthers, W. by Miss. River.

Isaac Sampson. 4325 acres. No description given.

1880

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson and Rainey, W. by Miss. River.

J. W. Henry. 326 acres—Described as Fentress tract.

[fol. 566] Parr & Sugg. 1450 acres. North by Fentress tract, South by Brackin, E. by Mann & Caruthers, and W. by Old Cutoff Island.

Heirs of Isaac Brackin. 4325 acres. No description given.

1881

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River.

J. W. Henry. 326 acres—Known as Fentress tract.

Parr & Sugg. 1450 acres—“On Cutoff Island.”

Heirs of Isaac Sampson—No assessment for this year.

1882

Heirs of Isaac Brackin—488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River.

J. W. Henry. 326 acres. North by Michell, S. by Sugg & Parr, E. by Obion River and W. by Miss. River.

Parr & Sugg. 1450 acres. North by Fentress, S. by Brackin, E. by Sampson and W. by Miss. River.

Heirs of Isaac Sampson. 5000 acres. No description.

1883

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River.

J. W. Henry. 326 acres. No description given.

Parr & Sugg. 500 acres. North by Fentress, S. by Brackin, E. by Sampson and W. by Miss. River.

Heirs of Isaac Sampson. 5000 acres. No description given.

[fol. 567]

1884

Heirs of Isaac Brackin. 488 acres. N. by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River.

Bergie heirs. 1000 acres. North by Moss, S. by Brackin, E. by old channel, W. by Parr & Sugg.

Parr & Sugg. 500 acres. N. by Henry, S. by Brackin, E. by Sampson, W. by Miss. River.

J. W. Henry. 326 acres. N. by Michell, S. by Parr & Sugg, E. by Sampson, W. by Miss. River.

1885

Heirs of Isaac Brackin. 488 acres. N. by Sugg & Parr, S. by Obion River, E. by old channel, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by —, E. by old channel, W. by —.

J. W. Henry. 326 acres. N. by Michell, S. by Parr, E. by Sugg, W. by Miss. River.

Parr & Sugg. 500 acres. N. by Henry, S. by Brackin, E. by Brackin, W. by Sampson.

1886

Heirs of Isaac Brackin. 488 acres. N. by Sugg & Parr, S. by Obion River, E. by old channel, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by —, E. by old channel, W. by —.

J. W. Henry. 326 acres. N. by Michell, S. by Parr, E. by Sugg, W. by Miss. River.

Parr & Sugg. 500 acres. N. by Henry, S. by Brackin, E. by Brackin, W. by Sampson.

1887

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

J. W. Henry. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

[fol. 568] 1888

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1889

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1890

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

[fol. 569]

1891

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1892

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1893

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1894

Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. 400 acres. N. by Michell, S. by Sugg, E. by Moss, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

[fol. 570]

1895

Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

L. M. Michell. Omitted from assessment.

1896

Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

J. L. Bergie. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. Omitted from assessment rolls.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1897

Isaac Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

L. M. Michell. Omitted from assessment rolls.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

1898

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown.

[fol. 571] L. M. Michell. 430 acres. North by Michell, S. by Sugg, E. by River and West by Miss. River.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River.

1899

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by River and West by Miss. River.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River.

1900

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by River and W. by Miss. River.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River.

1901

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown.

[fol. 572] L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by River and W. by Miss. River.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River.

1902

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by river and W. by Miss. River.

Parr & Sugg. Omitted from assessment.

1903

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by river and W. by Miss. River.

Parr & Sugg. Omitted from assessment roll.

1904

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

L. M. Michell. 400 acres. N. by Michell, S. by Sugg, E. by Jones, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River.

[fol. 573]

1905

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

L. M. Mitchell. 400 acres. N. by Michell, S. by Sugg, E. by Jones, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River.

1906

Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

— Eubanks. 400 acres. No description given.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River.

1907

Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

— Eubanks. 400 acres. No description given.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River.

1908

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

— Eubanks. 400 acres. Omitted from tax rolls.

Parr & Sugg. 600 acres. N. by Michell, S. by —, E. by Bergie, W. by River.

[fol. 574] Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River.

1909

— Eubanks. 400 acres. Omitted from assessment rolls.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River.

Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River.

1910

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by River.

1911

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1912

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

[fol. 575]

1913

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1914

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1915

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1916

W. R. Eubanks. 40 acres. N. by Michell, S. by Parr, E. by Moss, W. by Parr.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

[fol. 576]

1917

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

J. T. Jacocks. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1918

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

J. T. Jacocks. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1919

R. M. Hall. 1000 acres. N. by Moss, S. by river, E. by old channel, W. by Stephens.

J. T. Jacocks. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1920

Lauderdale and Boyd. 1000 acres. N. by Moss, S. by River, E. by old channel, W. by _____.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by _____.

[fol. 577]

1921

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River.

1922

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River.

1923

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River.

1924

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River.

[fol. 578]

1925

N. A. Yancey. 800 acres. N. by Moss, S. by river, E. by Calcutt and W. Huey.

N. A. Yancey. 802 acres. "Parr Land."

N. A. Yancey. 213 acres. No description.

1926

N. A. Yancey. 800 acres. N. by Moss, S. by river, E. by Calcutt and W. Huey.

N. A. Yancey. 802 acres. "Parr Land."

N. A. Yancey. 213 acres. No description.

1927

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1928

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1929

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1930

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1931

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

9—9 Orig.

130

[fol. 579]

1932

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1933

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1934

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

1935

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River.

[fol. 580] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, County Court Clerk for and in said State and County, do hereby certify that the above and foregoing is a true, full and perfect copy of the assessment books or tax duplicates of the above county and state insofar as it affects the tracts of land herein mentioned and described. I further certify that no tax duplicates or assessment books bearing date prior to the year 1870 can be found in my office.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 15 day of August, 1938.

J. C. Prichard, County Court Clerk, Dyer County,
Tennessee. (Seal.)

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, County and Probate Judge and Presiding Judge of said county, do hereby certify that J. C. Prichard, whose signature is annexed to the above and foregoing certificate, was at the time of making the same the duly elected, commissioned, qualified and acting County Court Clerk of said County and State, that he is the proper person to certify to the authenticity of such records and that his attestation thereto is in due form.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 15th day of August, 1938.

Robert D. Jones, County and Probate Judge, Dyer County, Tennessee. (Seal.)

[fol. 581] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, County Court Clerk for and in said county and state, do hereby certify that R. D. Jones, who executed the above certificate, was at the time of the execution thereof the duly elected, commissioned, qualified and acting County and Probate Judge of said county and state.

Witness my hand and seal of office at office, in Dyersburg, Tennessee, this the 15 day of August, 1938.

J. C. Prichard, County Court Clerk, Dyer County, Tennessee. (Seal.)

[fol. 582] TENNESSEE EXHIBIT 45

Resume of Assessments and Tax Payments in Civil District 11, Dyer County, Tennessee, as Shown by the Books of the Office of County Trustee

1870

No Tax Book Can Be Found

Heirs of Isaac Brackin. 3 tracts aggregating 456 acres.
No description.

M. V. Dickson. 335 acres. No description.

Parr & Sugg. 607 acres. No description.

Isaac Sampson, 3 tracts, 1000 acres, 725 acres, 2600 acres.
No description.

1871

No Tax Book Can Be Found

Heirs of Isaac Brackin. 2 tracts, 200 acres, and 286 acres.
No description.

M. V. Dickson. 325 acres. No description.

Parr & Sugg. 607 acres. No description.

Isaac Sampson, 3 tracts, 1000 acres, 725 acres, 2600 acres.
No description.

1872

No Tax Book Can Be Found

Heirs of Isaac Brackin. 488 acres. No description given.
M. V. Dickson. 325 acres. No description given.

Parr & Sugg. 607 acres. No description given.

Isaac Sampson. 3 tracts, 1000 acres, 725 acres, 2600 acres.
No description given.

1873

No Tax Book Can Be Found

Isaac Brackin heirs. 488 acres. No description given.

M. V. Dickson. 326 acres. No description given.

Parr & Sugg. 488 acres bounded on the North by —, S. by Brackin, E. by Armstrong, W. by Mississippi Riv.

Isaac Sampson. 3 tracts aggregating 4325 acres. No description.

[fol. 583]

1874

Isaac Brackin heirs. 488 acres. North by —, S. by Obion River, E. by Armstrong and W. by Miss. River. Taxes paid March 10, 1875.

J. W. Henry. 326 acres described as follows: "Boundaries unknown, near L. M. Michell." Taxes paid Nov. 26, 1876.

Parr & Sugg. 607 acres. N. by —, S. by Brackin, E. by Armstrong, W. by Miss. River. Taxes paid Feb. 25, 1875.

Isaac Sampson. 4325 acres. Description unknown. Taxes unpaid.

1875

Isaac Brackin heirs. 488 acres. North by Singleton, S. by Obion River, E. by Armstrong and W. by Miss. River. Taxes paid May 31, 1876.

J. W. Henry. 326 acres. No description given. Tax paid Feb. 1, 1876.

Parr & Sugg. 607 acres. North by Fentress, S. by Brackin, E. by Armstrong and W. by Miss. River. Tax paid Feb. 10, 1876.

Isaac Sampson. — acres. Description unknown. Omitted from tax book.

1876

Isaac Brackin heirs. 488 acres. No description given. Unpaid reported.

J. W. Henry. 326 acres. No description given. Tax paid Sept. 28, 1877.

Parr & Sugg. 607 acres. No description given. Tax paid Jan. 30, 1877.

Isaac Sampson—Omitted from tax book.

1877

Isaac Brackin heirs. 488 acres. North by Singleton, S. by Obion River, E. by Armstrong and W. by Miss. River. Tax unpaid—reported.

J. W. Henry. 326 acres. No description given. Tax paid Jan. 4, 1878.

Parr & Sugg. 607 acres. North by Fentress, S. by Brackin, E. by Armstrong, W. by Miss. River. Tax paid Jan. 25, 1878.

Isaac Sampson. 4325 acres—Boundaries unknown. Tax unpaid—Reported.

{fol. 584] 1878

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson and Rainey, W. by Miss. River. Tax paid—no date given.

J. W. Henry. 326 acres. North by Fentress, S. by Sugg & Parr, E. by Obion River, W. by Miss. River. Tax paid Dec. 28, 1878.

Parr & Sugg. 1450 acres. North by Fentress, S. by Brackin, E. by Mann & Caruthers and W. by Miss. Riv. Tax paid Jan. 7, 1879.

Isaac Sampson. 4325 acres. No description given. Unno other description given. Tax paid—no date given.

1879

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson and Rainey, W. by Miss. River. Tax paid Aug. 26, 1880.

J. W. Henry. 326 acres—Described as Fentress tract. Michell, E. by Sugg & Parr, W. by Miss. River. Tax paid Aug. 28, 1880.

Parr & Sugg. 1450 acres. North by Fentress, S. by Brackin, E. by Caruthers, W. by Miss. River. Tax paid Aug. 25, 1880.

Isaac Sampson. 4325 acres bounded on S. by Totten, paid.

1880

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson and Rainey, W. by Miss. River. Tax paid Aug. 23, 1881.

J. W. Henry. 326 acres. North by Fentress, S. by Tax paid Aug. 3, 1881.

[fol. 585] Parr & Sugg. 1450 acres. North by Fentress tract, South by Brackin, E. by Mann & Caruthers, and W. by Old Cutoff Island. Tax paid Aug. 4, 1881.

Heirs of Isaac Brackin. 4325 acres. No description given. Taxes unpaid.

1881

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River. Tax paid Oct. 25, 1881.

J. W. Henry. 326 acres—Known as Fentress tract. Tax paid Oct. 31, 1883.

Parr & Sugg. 1450 acres—“On Cutoff Island.” Tax paid Oct. 24, 1881.

Heirs of Isaac Sampson—No assessment for this year.

1882

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River. Tax paid Nov. 24, 1882.

J. W. Henry. 326 acres. North by Michell, S. by Sugg & Parr, E. by Obion River and W. by Miss. River. Tax paid Nov. 14, 1882.

Parr & Sugg. 1450 acres. North by Fentress, S. by Brackin, E. by Sampson and W. by Miss. River. Tax paid Dec. 4, 1882.

Heirs of Isaac Sampson. 5000 acres. No description. Tax not paid—reported.

1883

Tax books can not be found

Heirs of Isaac Brackin. 488 acres. North by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River.

J. W. Henry, 326 acres. No description given.

Parr & Sugg. 500 acres. North by Fentress, S. by Brackin, E. by Sampson and W. by Miss. River.

Heirs of Isaac Sampson. 5000 acres. No description given.

[fol. 586]

1884

Tax book can not be found

Heirs of Isaac Brackin. 488 acres. N. by Sugg & Parr, S. by Obion River, E. by Sampson, W. by Miss. River.

Bergie heirs. 1000 acres. North by Moss, S. by Brackin, E. by old channel, W. by Parr & Sugg.

Parr & Sugg. 500 acres. N. by Henry, S. by Brackin, E. by Sampson, W. by Miss. River.

J. W. Henry. 326 acres. N. by Michell, S. by Parr & Sugg, E. by Sampson, W. by Miss. River.

1885

Tax book can not be found

Heirs of Isaac Brackin. 488 acres. N. by Sugg & Parr, S. by Obion River, E. by old channel, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by —, E. by old channel. W. by —.

J. W. Henry. 326 acres. N. by Michell, S. by Parr, E. by Sugg, W. by Miss. River.

Parr & Sugg. 500 acres. N. by Henry, S. by Brackin, E. by Brackin, W. by Sampson.

1886

Tax book can not be found

Heirs of Isaac Brackin. 488 acres. N. by Sugg & Parr, S. by Obion River, E. by old channel, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by —, E. by old channel, W. by —.

J. W. Henry. 326 acres. N. by Michell, S. by Parr, E. by Sugg, W. by Miss. River.

Parr & Sugg. 500 acres. N. by Henry, S. by Brackin, E. by Brackin, W. by Sampson.

1887

Tax book can not be found

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River.

J. W. Henry. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River.

[fol. 587]

1888

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 4, 1889.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Jan. 17, 1889.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River. Tax paid Jan. 30, 1889.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Dec. 20, 1888.

1889

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Jan. 31, 1890.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Feb. 3, 1890.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River. Tax paid Feb. 8, 1890.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax unpaid—reported.

1890

Heirs of Isaac Brackin. 48 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Jan. 31, 1891.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Jan. 29, 1891.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River. Tax paid Feb. 2, 1891.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Jan. 26, 1891.

[fol. 588]

1891

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 1, 1892.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Feb. 1, 1892.

L. M. Michell. 325 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River. Tax paid Feb. 1, 1892.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid June 25, 1892.

1892

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 15, 1893.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Feb. 15, 1893.

L. M. Michell. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River. Tax paid—no date given.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Jan. 26, 1893.

1893

Heirs of Isaac Brackin. 488 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 5, 1894.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Jan. 29, 1894.

L. M. Michell. 326 acres. N. by Michell, S. by Sugg, E. by Bergie, W. by Miss. River. Tax paid—no date given.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax unpaid—reported.

1894

Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Jan. 31, 1895.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid March 27, 1895.

L. M. Michell. 400 acres. N. by Michell, S. by Sugg, E. by Moss, W. by Miss. River. Tax paid—no date given.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Jan. 24, 1895.

[fol. 589]

1895

Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 24, 1896.

Bergie heirs. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax paid Jan. 31, 1896.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Not paid—reported.

L. M. Michell. Omitted from assessment.

1896

Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid June 9, 1897.

J. L. Bergie. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax unpaid—reported.

L. M. Michell. Omitted from assessment rolls.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Jan. 28, 1897.

1897

Isaac Brackin heirs. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax unpaid—reported.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Miss. River. Tax unpaid—reported.

L. M. Michell. Omitted from assessment rolls.

Parr & Sugg. 600 acres. N. by Henry, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Feb. 5, 1898.

1898

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Jan. 31, 1899.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown. Tax paid Feb. 3, 1899.

[fol. 590] L. M. Michell. 430 acres. North by Michell, S. by Sugg, E. by River and West by Miss. River. Tax paid Feb. 6, 1899.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River. Tax paid Feb. 2, 1899.

1899

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Jan. 5, 1900.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown. Tax paid Feb. 28, 1900.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by River and West by Miss. River. Tax paid Feb. 28, 1900.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River. Tax paid Jan. 27, 1900.

1900

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 20, 1901.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown. Tax paid Feb. 26, 1901.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by River and W. by Miss. River. Tax paid Feb. 8, 1901.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River. Tax paid Jan. 30, 1901.

1901

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 28, 1902.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown. Tax paid—no date given.

[fol. 591] L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by River and W. by Miss. River. Tax paid Jan. 29, 1902.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie and W. by River. Tax paid Jan. 31, 1902.

1902

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax marked paid Feb. 29, 1902.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River E. by old channel, W. by Brown. Tax paid—no date.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by river and W. by Miss. River. Tax paid Feb. 14, 1903.

Parr & Sugg. Omitted from assessment.

1903

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Dec. 10, 1903.

Hall & Dawson. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Brown. Tax paid—no date given.

L. M. Michell. 430 acres. N. by Michell, S. by Sugg, E. by river and W. by Miss. River. Tax paid Feb. 2, 1904. Parr & Sugg. Omitted from assessment roll.

1904

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Dec. 5, 1904.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid March 1, 1905.

L. M. Michell. 400 acres. N. by Michell, S. by Sugg, E. by Jones, W. by Miss. River. Tax paid Jan. 19, 1905.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid March 2, 1905.

[fol. 592]

1905

Heirs of Isaac Brackin. 779 acres. N. by Sugg, S. by Obion River, E. by Bergie, W. by Miss. River. Tax paid Feb. 18, 1906.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid—no date given.

L. M. Mitchell. 400 acres. N. by Michell, S. by Sugg, E. by Jones, W. by Miss. River. Tax paid Dec. 8, 1906.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Feb. 28, 1905.

1906

Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River. Tax paid March 4, 1907.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid—no date given.

— Eubanks. 400 acres. No description given. Tax paid May 4, 1907.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Feb. 9, 1907.

1907

Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River. Tax paid May 7, 1908.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid—no date.

— Eubanks. 400 acres. No description given. Tax paid Nov. 19, 1908.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Jan. 29, 1908.

1908

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid—no date given.

— Eubanks. 400 acres. Omitted from tax rolls.

Parr & Sugg. 600 acres. N. by Michell, S. by —, E. by Bergie, W. by River. Tax paid Feb. 27, 1909.

[fol. 593] Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River. Tax paid—no date.

1909

— Eubanks. 400 acres. Omitted from assessment rolls.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid—no date.

Parr & Sugg. 600 acres. N. by Michell, S. by Brackin, E. by Bergie, W. by Miss. River. Tax paid Feb. 28, 1910.

Southern Wood Supply Co. 1050 acres. N. by Sugg, S. by Obion River, E. by Hall, W. by Miss. River. Tax paid Feb. 10, 1910.

1910

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River. Tax paid Feb. 28, 1911.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid—no date.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by

Bergie, E. by old channel, W. by River. Tax paid Feb. 27, 1911.

✓ 1911

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River. Tax paid Jan. 5, 1912.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 29, 1912.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by River. Tax paid Feb. 29, 1912.

1912

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River. Tax paid Feb. 28, 1913.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 25, 1913.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by River. Tax paid Feb. 27, 1913.

[fol. 594]

1913

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River. Tax paid Feb. 28, 1914.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 23, 1914.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by River. Tax paid Feb. 28, 1914.

1914

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River. Tax paid Feb. 11, 1915.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 27, 1915.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by River. Tax paid Feb. 27, 1915.

1915

W. R. Eubanks. 400 acres. N. by Michell, S. by Parr, E. by Moss, W. by Miss. River. Tax paid Feb. 9, 1916.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 25, 1916.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by

Bergie, E. by old channel, W. by River. Tax paid Feb. 28, 1916.

1916

W. R. Eubanks. 40 acres. N. by Michell, S. by Parr, E. by Moss, W. by Parr. Tax paid Feb. 27, 1917.

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 28, 1917.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by River. Tax paid Feb. 13, 1917.

[fol. 595] 1917

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens. Tax paid Feb. 28, 1917.

J. T. Jacocks. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr. Tax paid Feb. 28, 1917.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river. Tax paid Feb. 28, 1917.

1918

No tax book found

R. M. Hall. 1000 acres. N. by Moss, S. by Obion River, E. by old channel, W. by Stephens.

J. T. Jacocks. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river.

1919

R. M. Hall. 1000 acres. N. by Moss, S. by river, E. by old channel, W. by Stephens. Tax paid—no date.

J. T. Jacocks. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr. Tax paid—no date.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by river. Tax paid Feb. 28, 1920.

1920

No tax book found

Lauderdale and Boyd. 1000 acres. N. by Moss, S. by River, E. by old channel, W. by —.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by old channel, W. by —.

[fol. 596]

1921

No tax book found

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River.

1922

No tax book found

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River.

1923

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher. Tax paid Feb. 29, 1924.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr. Tax paid Feb. 20, 1924.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River. Tax paid Feb. 29, 1924.

1924

Fields-Rupe Stave Company. 807 acres. N. by Moss, S. by river, E. by Calcutt, W. by Fisher. Tax paid Apr. 23, 1925.

S. G. Latta. 213 acres. N. by D. & N., S. by Parr, E. by Moss, W. by Parr. Tax paid Feb. 16, 1925.

Mrs. M. P. W. Parr. 800 acres. N. by D. & N., S. by Bergie, E. by river, W. by Miss. River. Tax paid Apr. 23, 1925.

[fol. 597]

1925

N. A. Yancey. 800 acres. N. by Moss, S. by river, E. by Calcutt and W. Huey.

Taxes unpaid

N. A. Yancey. 802 acres. "Parr Land."

Reported as delinquent

N. A. Yancey. 213 acres. No description.

1926

Tax paid April 22, 1927

N. A. Yancey. 800 acres. N. by Moss, S. by river, E. by Calcutt and W. Huey.

N. A. Yancey. 802 acres. "Parr Land."

N. A. Yancey. 213 acres. No description.

1927

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid Sept. 28, 1928.

1928

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid April 30, 1929.

1929

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid Feb. 28, 1930.

1930

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid Feb. 26, 1931.

1931

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid May 20, 1932.

[fol. 598]

1932

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid August 8, 1933.

1933

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid Feb. 23, 1934.

1934

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid Feb. 25, 1935.

1935

N. A. Yancey. 1965 acres. N. by Chic Farm, S. by Obion River, E. by Obion River, W. by Miss. River. Tax paid Feb. 28, 1936.

[fol. 599] STATE OF TENNESSEE,
Dyer County:

I, Maggie White, County Trustee, do hereby certify that the within and foregoing constitutes a full, true and perfect excerpt from the tax books in my possession, showing the assessment and payment of taxes upon the lands therein described in Civil District 11, Dyer County, Tennessee. I further certify that no record of tax payments prior to 1874 can be found in my office.

Witness my hand, there being no seal of office, at Dyersburg, Tennessee, on this the — day of August, 1938.

Maggie White, County Trustee, Dyer County, Tennessee, by H. D. Gannon, D. T.

STATE OF TENNESSEE,
Dyer County:

I, R. D. Jones, County and Probate Judge and Presiding Judge of said County, do hereby certify that Maggie White, who executed the above and foregoing certificate, was at the time of the execution thereof the duly elected, commissioned, qualified and acting County Trustee of Dyer County, Ten-

nessee, that she is the proper person to execute said certificate and that her attestation thereto is in due form.

Witness my hand and seal of office at office in Dyersburg, Tennessee, on this the 15th day of August, 1938.

Robert D. Jones, County and Probate Judge, Dyer County, Tennessee. (Seal.)

[fol. 600] STATE OF TENNESSEE,
Dyer County:

I, J. C. Prichard, County Court Clerk for and in said county and state, do hereby certify that R. D. Jones, who executed the above certificate, was at the time of the execution thereof the duly elected, commissioned, qualified and acting County and Probate Judge of said County and State.

Witness my hand and seal of office at office in Dyersburg, Tennessee, this the 15 day of August, 1938.

J. C. Prichard, County Court Clerk, Dyer County,
Tennessee. (Seal.)

[fol. 601] TENNESSEE EXHIBIT 46

Monday, September 4th, 1882

Be it remembered that a County Court was begun and held in and for the County of Dyer, State of Tennessee at the Court House in Dyersburg, Tennessee on the First Monday in September (it being the 3rd day of said month) 1882 and 107th year of American Independence.

Present and holding said Court the Worshipful John E. McCorkle chairman, Zach Watkins clk and N. B. Tarrant, Shff.

When and where after proclamation the following proceedings were had to-wit:

* * * * *

This day M. M. Taylor Justice of the Peace elect in the 11-Civil district produced before the court a commission from the Governor of the State, commissioning him a Justice of the Peace for Dyer County, Tennessee, for and during the term, Whereupon the said M. M. Taylor together with Thos. H. Benton and John M. Nichols his securities entered

into and acknowledged bond in the penal sum of Five hundred dollars, conditioned and payable as the law directs: The said M. M. Taylor then took and subscribed the oaths prescribed by law, which oaths are endorsed on the said bond: Ordered that said bond and oaths be recorded in "Magistrates Bonds" and filed.

STATE OF TENNESSEE.
Dyer County:

I, James P. Lanier, Clerk of the County Court of Dyer County, Tennessee do hereby certify that the foregoing is a true and correct copy of part of the proceedings of the County Court on Monday Sept. 4, 1882 incident to qualifying M. M. Taylor as Justice of the Peace as the same appears in the records of my office in Minute Book D, pages 383 and 388.

Witness my hand and seal this September 13, 1938.

Jas. P. Lanier, Clerk. (Seal.)

[fol. 602]

TENNESSEE EXHIBIT 47

No. 1400

In Chancery at Dyersburg, Special Term 1894

V. GIBBS et als.

vs.

ANN E. MOSS et als.

It is agreed in this case that on the trial of this Cause if tried at the present term, complainants may introduce the Bill of Exceptions in the original Ejectment Suit of Moss vs. G. W. Gibbs tried in the Circuit Court of Dyer County, Tennessee in 1869, which may be taken as the evidence therein and admitted as evidence in this cause.

This Nov. 28th, 1894.

W. S. Draper, Solicitor for Defendants.

[fol. 603]

TENNESSEE EXHIBIT 47-A

Ejectment—In Circuit Court, Dyer County, Tenn.

CHARLES C. MOSS

vs.

W. B. THOMPSON

The Depositions of Isaac Brackin and Joseph Michell, witnesses for plaintiff in the above cause, taken on notice, on the 28th day of November 1867, at the house of Joseph Michell, in the presence of the plaintiff.

The said witness, JOSEPH MICHELL being 72 years of age, being first duly sworn, deposes as follows, to-wit:

1st Question by the Plaintiff: State whether or not you are acquainted with the land in the pleadings mentioned and described, if so how long have you known it?

Ans. I am acquainted with the said land and have passed up and down the Mississippi River ever since 1814.

2nd Question by same: State whether or not the land is on what is known as Cutoff Island and when said Island was formed?

Ans. It is and the Island was formed in 1822.

3rd Ques. by same: State of what country the land in controversy was a part prior to 1822 and under the jurisdiction of what government was it?

Ans. Prior to 1822 this whole Island was west of the Mississippi River and formed a part of Louisiana Territory up to 1806 the Spaniards had a Fort at New Madrid and held the country. My father moved to New Madrid in 1800. In 1806 all of Louisiana was surrendered to the United States including the land in dispute. After 1806 this Cutoff Island formed a part respectively of the Territories and States of Missouri and Arkansas as they were formed.

4th Ques. Up to what date did boats and other vessels continue to run east of the island and the land in controversy?

Ans. I think the river was navigable until 1824 east of the land in dispute.

[fol. 604] 5th Ques. State whether or not you passed over the land now known as Cutoff Island before it was separated from Missouri and Arkansas; if so when?

Ans. In 1819 I passed over the land and there was no sign of a Cutoff and water in the slough only in extreme high water the Channel of the River was east and there was no island until 1822.

6th Ques. Was or not said Island formed suddenly or by a slow and gradual change of the Mississippi River?

Ans. It was formed in less than three days and I was there while the channel was changing from east to west of this land.

7th Ques. State when you were again on what is now known as Cutoff Island after 1819 and what was the occasion of your being there?

Ans. I was there trading with the Indians. The Indians even camped opposite on the east bank of the River. The Indians had landed a boat that had got stove up in the head of the Island one of the boats was loaded with whiskey the Captain of the boat agreed to give the Indians one bbl. of whiskey each for helping land the boat they got me to go over and help them pick a big bbl. I went over and there stayed three days with them. It was in 1822. This was but a short time since the commencement of the formation of the Island.

8th Ques. State the sizes and age of the timber at the Cutoff when you first saw the land where the Mississippi River now runs at the Cutoff and over which you traveled in 1819.

Ans. The timber was very large and some of the trees must have been one hundred years old where the present channel of the Mississippi River that formed said Island now is.

And further this deponent sayeth not.

I swear that the facts set forth in this deposition are true to the best of my knowledge and belief.

Jos. Michell.

[fol. 605] The said ISAAC BRACKIN another witness for the Plaintiff aged 67 years being first duly sworn deposes as follows:

Question 1. State how the defendants obtained the possession of the land in dispute and when they so obtained the possession thereof.

Ans. As the Agent of the Plaintiff I put one Mr. Helens on the land or in possession of it in February 1860 and he

remained in possession thereof until Oct. 1861 when he sold out his possession and labor to defendant Allen Thompson. In '62 or 1863 the said Helen returned and took possession of the land and in 1863 he sold out to defendant Mrs. Hobbs. I heard both Wm. and Allen Thompson say that in 1864 the defendant Wm. Thompson took possession under or by the consent of Allen Thompson.

Question 2nd. State whether or not at the time the present suit was brought- the defendants were on the land in dispute and disclaiming that they were the tenants of the plaintiff C. C. Moss. State how that was.

Ans. At the time of the bringing of the present suit they were on the land in dispute and claiming adversely to the plaintiff C. C. Moss.

Question 3rd. State whether or not any one was in possession of the land in dispute when you placed Mr. Helen in the possession thereof as the agent of C. C. Moss in Feby. 1860. State how that was.

Ans. There was no one in possession of it at the time mentioned. Previous to that time no one had ever held possession except one M. H. Sugg who was temporarily during high water in 1859 he left there in June 1859.

Question 4th. How have you known the land in controversy and where is it situated?

Ans. I have known the land ever since 1823 and it is on what is now known as Cutoff Island.

Question 5th. Previous to 1823 on which side of the Mississippi River — the land in controversy lie?

Ans. It lay on the west side.

Question 6th. Up to what period did boats and other craft continue to run east of said land?

Ans. Until about 1820.

[fol. 606] Question 7th. Up to what year was the land in question entirely surrounded by water at all times after the island was formed by the Cutoff?

Ans. Up to the year 1828 or 1829.

Question 8th. When was the island formed?

Ans. The channel had not changed from the east to the west side up to 1823.

Question 9th. Previous to the time of the formation of the Island to what government, state, or territory did the land in controversy belong?

Ans. It was then a part of the Territory of Louisiana and afterwards to the Territory of Arkansas.

Question 10th. State whether or not previous to 1823 the land in controversy could have been included in a survey beginning in Tennessee without crossing the main channel of the Mississippi River?

Ans. It could not have been.

Question 11th. Was or not the island on which the land in controversy is formed suddenly or by a gradual change of the Mississippi River?

Ans. It was formed suddenly.

Question 12th. State in the circumstances that you remember connected with the change in the channel of the Mississippi River from East to West of the land in dispute.

Ans. In the spring 1823 I saw the steamer Packet try to go through the Cutoff but owing to the strong current could not and went round the east side I remember that other boats tried to go through the Cutoff and failed but I forgot the names except one called the United States.

And further the deponent sayeth not.

Attest: T. S. Chamblin.

Isaac (his X mark) Brackin.

The foregoing depositions of Joseph Michell and Isaac Brackin were taken before me as stated in the caption and reduced to writing by me. And I certify that I am not interested in the cause nor of kin or of counsel to either of the parties and that I delivered them to the Clerk of the Circuit [fol. 607] Court of Dyer County, Tennessee (where the suit is pending) without being out of my possession or altered after they were taken. Given under my hand this 29th day of November 1867.

T. S. Chamblin, Deputy Clerk of the Dyer Circuit Court.

[fol. 608]

TENNESSEE EXHIBIT 48

Ejectment—Circuit Court Dyer County, Tennessee

CHAS. P. Moss

vs.

GEO. W. GIBBS

The deposition of ISAAC SAMPSON a witness for the plaintiff taken by the consent of parties in the presence of Attys.

for the plaintiff and left at the office of Moss & Skeffington in Dyersburg on this the 7th of Feby. 1868. The said witness aged 68 deposed as follows:

Question 1st by plaintiff: State whether you are acquainted with the land mentioned and described in the pleadings. If so how long have you known it?

Ans. I am acquainted with the boundarys of the land mentioned in pleadings and with the Island upon which the land is situated. I was first along the old channel of the Mississippi River poling around this Island on the east side in the fall of 1817 and again the spring of 1818.

Question 2nd. State whether or not the land is and what is known as Needham Cutoff Island and state when it was formed.

Ans. The land in dispute is on Needham cutoff Island. The Island was not formed in the spring 1818 and was formed before 1826. Reputation says the Island was formed in the year 1822.

Question 3rd. State of what country the land in controversy was a part prior to the formation of this Island in 1822 and on which side of the land in dispute the Mississippi run prior to the formation of this Island east or west.

Ans. The land in controversy was west of the Mississippi River in 1818 and was considered a part of the Louisiana Purchase up to the formation of the Island when the River forced its way through west of the land in dispute and formed the Island say about the year 1822.

Question 4th. Up to what date did boats and other vessels continue to run west of the Island and the land in dispute.

[fol. 609] Ans. Boats had ceased to pass round the east side of the Island 1826—or perhaps sooner.

Question 5th. State whether or not you were down on this Island soon after the main channel was turned west of the land in dispute and if so state the size and age of the timbers on both sides of the banks of the river as it now runs west of the Island. State whether or not from the size and age of the timbers the Mississippi River could have run west of the land in controversy within the last century prior to the cutoff? State how that was.

Ans. I was along the new channel formed west of the Island or land in dispute in 1830 and 1831. I noticed the timber on each side of the new chute, the timber was generally large some of it very large and it was generally large

on the bank bluff on both sides of the new channel, many of the trees near the edges of the bank from their size must have been more than a century old when I saw the place in 1830. The River could not have run west of the Island for many years—say at least one hundred and fifty years before the year 1830.

Question 6th. State whether or not you were the agent and solicitor for Albert Moore et als. in a bill filed by them in the Chancery Court at Trenton Tenn. vs. G. W. Gibbs to divide grants no. 162 96 and 38 from the State of North Carolina and filed the bill for them and if so state whether or not you as their agent and solicitor drew the decree rendered in said cause at the Jan'y term of the Chancery Court at Trenton, Tenn. in the year 1847 directing the division of said grants.

Ans. I represented Albert Moore and others in the Chancery Court at Trenton, Tennessee in dividing Grants Nos. 38, 96, and 162 from the state of North Carolina to Martin Armstrong for 5,000 acres each. I drew up a part of the decree and G. W. Gibbs a part we drew it upon consultation together each writing a part of it.

Question 7th. State whether or not you and the defendant G. W. Gibbs prior to this decree discussed the question as to the propriety of extending the division of grant No. 96 over on this island on account of the then recent change [fol. 610] of the river and formation of this Island and the legal effect of the same.

Ans. We had one or more conversation about the part of Grant No. 96 that is claimed on the Island but Gibbs believed the title would be good to the claimants and did not object taking part of the Island so far as I now remember. He argued that when an individual or state sold land not having title at the time, if they afterward acquired title to the property it would belong to the purchaser if he chose to take it.

1st Q'n by Deft. Are you familiar with the records of the Entry Taken office of Dyer County, and the general plan of said county, also with land in dispute and adjacent tracts as they are located and surveyed on the ground?

Ans. I am somewhat familiar with the Entry Taken Books of Dyer County, there is no general plan or map now in the office to my knowledge there was a general plan of the 15th surveyors district years ago and also a plan of the County of Dyer both of which is worn out or destroyed.

I am acquainted with the lands adjoining the lands in dispute.

2nd by same. Are or not the boundaries of the land claimed as the Armstrong grant No. 96 as claimed by the defendant well marked and defined upon the ground?

Ans. The west boundary of Grant No. 96 was marked many years ago from the old channel north of the Island across the Island toward the south but I did not follow the line from the south west corner (which on the south side of the Island) east nor have I examined the line east of the old channel.

3rd. Was or not said grant No. 96 represented on the general plan or map of the 13th surveyors district and that of Dyer County as now claimed by deft. Gibbs?

Ans. The grant No. 96 was represented on the general plan of the 13th surveyors district when I first saw it in 1826 and afterward at different times it represented this grant No. 96 as being partly upon the Island, substantially as now claimed by defendant. And the general plan for Dyer County represented the land in the same way. I saw both of these plans frequently and noticed that part of them [fol. 611] representing the Island.

4th. Are there not entries and grants of lands adjoining said grant No. 96 all around it, as it is claimed by deft.?

Ans. McLemore and Ter-ell made entry and surveys upon the Island lying west and south of the land in dispute on the south at an early date after the Island was formed.

5th. Are or not these adjacent entries and grants on the same cutoff Island and about what are the dates?

Ans. The entry above spoken of is upon the cutoff or Needham Island and bears date according to record in the Entry Taken office 8th of March 1823—survey in 1824.

6th. Are there not other entries on said Island and do not such entries and that of McLemore & Ter-ell bear date prior to that of plff.?

Ans. These are other entries on the Island on the south of the McLemore and Tenell entry of various dates and most of them before the date of plff.'s entry.

7th. Did you ever examine the ground where the channel of the river now is west of said Island previous to the cutoff?

Ans. I never did.

Reexamination.

Question 1st. Please state what entry survey or grant adjoins the land now claimed by defts. as a part of grant No. 96. State whether the corners and lines on the ground or- not different and apart from each other.

Ans. At the time I saw the west boundary of grant No. 96 on the Island, there was only the McLemore and Ter-ell entry on the Island, that as resurveyed did not adjoin the grant No. 96 on the west but was represented as adjoining the grant No. 96 on the south, I was never at the corner of grant No. 96 that I remember of. I do not remember the width of the space between the lines.

Question 2nd. State whether or not the Ter-ell survey and the land claimed as of grant No. 96 joins on the south.

Ans. I never followed the south boundary line of grant No. 96 the survey of McLemore and Ter-ell calls to run with the south boundary of grant No. 96 for several hundred [fol. 612] poles but I do not know how it is on the ground there.

Question 3rd. State whether there are any cypress trees in the vicinity of the corner claimed as the south west corner of grant No. 96 that could have been standing in 1785.

Ans. I saw none but small young cypress.

And further sayeth not.

Isaac Sampson.

Sworn to me Feb'y 7th 1868, before F. G. Sampson.

This deposition needs no certificat- and can be read in the case of C. C. Moss filed in the office in said county by G. W. Gibbs without objections on account of no certificate this Feb'y 7th 1867.

[fol. 613]

TENNESSEE EXHIBIT 49

CHARLES C. MOSS

vs.

W. B. THOMPSON, G. W. GIBBS, & OTHERS

BILL OF EXCEPTIONS

On the trial of this cause the plaintiff introduced and read his entry and plat and certificate filed marked "A"

as part of this bill of exceptions. He then read his grant herewith filed marked "B" as part of the bill of exceptions. Plaintiff then introduced Isaac Brackin who testified that at the commencement of the suit the defendants were in possession of the land in controversy, holding adversely to plaintiff and as the tenants of G. W. Gibbs. Know where the land lies but does not know the boundaries and calls. Does not know whether anybody in possession when the entry was made, does not know when the entry was made. No one was in possession in August 1859. Hogg was in possession of the place in 1859 but does not know that he claims under anyone. He was there only temporarily to take care of his stock during high water and left about the last of June 1859. In 1859 or 1860 he leased all of the land from plaintiff. In reply to deft. stated he had no written lease, on being recalled next day said he had a written lease from plaintiff and did not understand deft. on the day before when he was questioned about the lease. That witness was hard of hearing. Witness did not recollect of making application to Clark for lease for Hogg. Witness placed Holmes in possession of all the land in controversy sometime in 1860 or 1861 as the tenants of plaintiff. Holmes afterwards sold out to Allen Thompson. Was not present at this sale. Holmes built a house and cleared two or three acres of land. Witness lent him oxen to haul up house logs. Witness never lived on place. Sent Holmes there to take care of Witness stock, furnished provisions to Holmes. [fol. 614] Stated in reply to deft. that did not recollect that he had given his deposition but when the place was called to his attention by Pltf. said that he had given it. Said his lease from plaintiff he thought was for ten years, did not remember. Said lease was left with Mr. Clark, did not recollect boundaries of land, nor how much was included in lease. Sam Allen & W. B. Thompson was a paper given to plaintiff which was read and is herewith filed marked "C" as part of this bill of exceptions. Don't know who Mr. Hobbs claimed under.

The defendant then read his grant 96 to Martin Armstrong for 5000 which is marked No. 1 as part of this bill of exceptions. He then read copy of decree of Chancery Court at Trenton marked exhibit No. 2 as part of this bill of exceptions. Deft. then read the entry of McLemore & Terrell marked No. 3 and this survey marked No. 4 as part of this bill of exceptions. The deft. then read a deed from

Thos. T. Armstrong to A. Moore and others marked No. 5 as part of this bill of exceptions.

The deft. then introduced H. Clark who proved that he had lived in Dyer County since 1826, that from 1831 to 1840 he was sheriff and tax collector for said county, that the land in controversy was on an island over which the county had exclusive jurisdiction all the time he was sheriff. That he had served process there and collected taxes on the lands, and during that time it was reported to belong to the County of Dyer. Was one of the Commissioners to divide land between heirs of Armstrong and G. W. Gibbs, that he was the agent of Gibbs till the last few years he had paid the taxes for Gibbs. He was appointed agent in 1852 with power of attorney to sell or lease and had continued to act till since the — was he quit being agent for anyone. In 1859 Brackin applied to witness for lease for Hogg. Told him to go over land but did not know whether he did so. In 1861 Holmes came to witness for a lease and he told him he could have one, that is he gave him a verbal lease and leasehold that he went on the lands. This was in the latter part of 1861, and in cold weather. Allen Thompson also applied for a lease and I sent him to Gibbs and Mr. Tipton [fol. 615] Thompson showed me the lease. To run off the grant according to courses and distances it would necessarily cover the land in controversy except that plaintiff's grant covers more land on the South than Gibbs land. That Z. B. Phillips was one of the commissioners and for several years county surveyor and is dead. That Phillips said he wrote in the Office of the Surveyor General and said he had made a map which he had with him and kept in the entry takers office, that the entry taker subsequently in 1836 made a map of the county for which he was paid by the county, that in 1843 another map was made, and on all of said maps the cutoff island was laid down and part of the Martin Armstrong grant and the McLemore & Terrell grant were laid down on the island. All the maps were kept and used in the entry takers office. Witness had been a great deal in Mississippi bottoms and had seen places said to be thrown up by the earthquake in 1812 fifteen feet high and others sunk so that the tops of the trees were barely visible. By reputation the island was formed in 1811 and the cutoff took its name as witness learned by tradition from the man who first run his boat through there in 1811, the man being named Needham. That he has lived about Dyersburg

all the time and been a public man, and never heard of any-one in possession of the land setting adverse claim to Gibbs till about the commencement of this suit. Gibbs does not live in the county and never did.

Witness on cross examination stated that the land in controversy was in 1783 west of the Mississippi River and the Surveyor would have had to cross that stream if he had then made the survey. That the surveys as made at that period were what are known as Clearing Corner surveys, that it was the habit of surveyors to run a base line and lay off the tracts of land on each side making only one corner and the calling for courses and distances for compliment. That as commissioner he never went on the island, never saw any lines and saw only one corner of the grant.

Mrs. King a witness for the defence went to live on the island in 1861 and was the wife of Allen Thompson decd. who took possession under Gibbs, in the fall of 1861 Holmes was living on the land.

[fol. 616] She says in the spring of 1862 her husband purchased Hallum's claim and labor.

Hallum was claiming under plaintiff. She stated that Mr. Moss came there and wanted her husband to abandon his lease from Gibbs and take a lease from him and offered him two or three years more time, and threatened to turn him off when he gained the land if he did not do so. Mr. Moss wanted her husband to sign a paper. She does not know whether he did so or not. She says the paper shown her bears husband's signature. She says Mr. Hobbs held under her husband.

W. B. Thompson defts. witness stated that his brother Allen Thompson went upon the land in dispute under a lease from G. W. Gibbs in the fall of 1861. That Hallum went on the land in April 1861. Allen Thompson purchased Hallum's claim in the spring of 1862. He had an enclosure of Two or three acres and *and* built log cabin. Hallum denied that he held under Moss. Witness went upon the land in 1864 under Allen Thompson and Mrs. Hobbs went upon the land under Allen Thompson. Witness says that Plff. came to him and his brother and wanted them to abandon the lease from Gibbs and take one from him which they refused to do. The improvements of witness and those of Allen Thompson and Mrs. Hobbs are east of the now Mitchell land. Witness on cross examination stated that he did not recollect of signing the paper bearing his name.

Upon being recalled he stated that upon reflection he did recollect it, that the names are the signatures of himself and his brother, that Mr. Moss told them that it would not affect their rights. He said he knew nothing of the boundaries set forth in that paper. Witness stated that Hallum raised a crop on the land in 1861.

Silsby, defts. witness, says he is entry taker of Dyer County, and he knows of no map or general plan of said county. He has never seen any.

Isaac Sampson stated that he has lived in Dyer County ever since 1826 and during that time Dyer County has exercised jurisdiction over the said cut-off island, the lands that have been taxed, the people had their deeds registered in the county.

As rebutting testimony plff. had the deposition of Joseph [fol. 617] Mitchell marked exhibit "D".

And on cross examination witness stated that he passed through the slough where the channel of the *channel of the* Miss. River now is, called the cut-off. In 1819 there was no timber in the channel of the slough, there was a pond in it. Does not recollect how wide it was. The banks were high, with heavy cane breaks on them. The ground was higher at the edge of the bank than it was further back.

It was low water when he passed through. The distance was about half a mile, and was seventeen miles around. He says the Martin Armstrong grant has been reported to be in part upon the cut-off island, to his knowledge, from about 1831, ever since he has lived in the vicinity of it. The McLemore & Terrell tract has been occupied by persons claiming to be the owners of a part of it for about 14 years.

On re-examination he stated that there were two lines on the east side of the McLemore & Terrell tract. Does not know the distance between them.

The plff. then had the depositions of Isaac Brackin marked exhibit "F."

Also the deposition of Isaac Sampson marked Exhibit "E".

Also the deposition of Jesse Clark marked Exhibit "G".

Also a copy of Chancery decree marked Exhibit "H".

Also the statement signed by A. B. Thompson and W. B. Thompson marked Exhibit "I".

H. N. C. Wynne plff's. witness stated that he is surveyor for Dyer County, that he made plaintiffs survey, that in

running north from the southwest corner of plffs. survey a short distance from the corner he passed a tree marked "M", and on the same line at the northeast corner of the McLemore & Terrell survey he found a cottonwood marked "M". He stated that W. B. Thompson showed where he said the western boundary of Gibbs land was. He examined but found no land marks. He run by his compass and found the course ran through W. B. Thompson's horse lot, leaving an acre or two of the horse lot on the west side of the line. He did not run this line to any corner. He run it but a short distance. He said if this was the west boundary of [fol. 618] Gibbs land there would be a vacancy between Gibbs land and the McLemore & Terrell tract.

On cross examination he stated that he did not know whether the line running through Thompson's horse lot would run to any corner of the Armstrong tract or not. He does not know the width of the space between the place shown him by Thompson as Gibbs line and the McLemore & Terrell line.

He said it was the habit of some surveyors to put their initials on corner trees.

This was all the evidence in the case.

The defendant objected to the reading of the plffs. entry, survey, and grant, also the paper marked Exhibit "I" which objections were overruled by the court and said papers were read to the jury to all which defendant excepts.

The plaintiff objected to the reading of exhibits Nos. 1, 2, 3, 4, & 5. Also to so much of H. Clark's testimony as to what Z₂ B. Phillips told him and as to what he saw on the maps mentioned in his testimony, which objections were overruled by the court and said papers and testimony were allowed to go to the j-ry to all of which the plaintiff excepts.

The court charged as in exhibit H. The plaintiff asked the court to charge as in exhibit z, which the court refused to do.

The verdict was for the defendants. The plaintiff moved for a new trial which was overruled by the Court and judgment rendered on the verdict, to all of which judgment and opinion of the Court the plaintiff excepts and tenders this his bill of exceptions and prays that the same be signed and sealed and made a part of the record, which is done.

John A. Rogers or (Ragan). (Seal.)

CHARLES C. MOSS

v.

GEORGE W. GIBBS

NICHOLSON, C. J., delivered the opinion of the Court:

This is an action of ejectment involving the title of an island in the Mississippi river, known as Denham's or Cut-off Island. Plaintiff claims title under a grant from the State of Tennessee, dated in 1867. Defendant claims under a grant from North Carolina, dated in 1788. The questions in the case arise upon the following facts, about which there is no contest. The grant to Martin Armstrong, under which defendant claims, dated in 1788, describes the land as follows: A tract of land containing five thousand acres, lying and being in the western district, lying on the Obion river about one miles above the mouth of said river; beginning at a pecan, sycamore and hoop ash, marked I and E, on the north bank of said river, five chains above a lake. Armstrong's corner, runs south 160 chains to a cypress, thence east 312½ chains to a stake, thence north 160 chains to an ash—Armstrong's line—to the beginning. The beginning corner of the grant is identified and fixed by the proof, but neither of the other corners is identified, nor is it shown that any of the lines were ever run or marked. On the contrary, the proof makes it reasonably certain that none of the lines were ever run or marked. It is shown that the Mississippi, in its southerly course, made a bend to the east about the point where the Obion river entered it, and that after circling around for about sixteen miles it returned to a point about half a mile from that where it deflected from [fol. 620] its southern course, and then pursued its southerly course. In 1788, and down to 1822 or 1823, this circular bend was the main channel of the river, and if the grant had been run out in 1788 nearly the entire tract embraced within its boundaries would have been west of the main channel of the river, and consequently in territory which then belonged to the government of Spain. It is further shown, that in 1822 or 1823, in consequence of a sudden avulsion, the river broke through the half mile before referred to, deserted its former channel around the circular bend, and that from about that time, at least since 1826, the main

channel of the stream has been through the half mile of cut-off. The island thus formed has since been known as Cut-Off Island, or Denham's Island, from the name of the first man who navigated the cut-off. The proof is abundant that since 1826 the channel of the river has been along the cut-off.

In 1788, when the grant issued to Martin Armstrong, the territory on the west bank of the Mississippi river belonged to Spain, and her line was in the center of the main channel. This line was along the thread of the circular bend, which was the main channel of the river. It follows that, according to the calls of the grant, the land granted by North Carolina to Martin Armstrong in 1788 was the property of the Spanish government, and not the property of North Carolina. The grant was therefore a nullity. *Polk's Lessee v. Wendal*, 9 Cranch, 99.

It does not appear from the record that anything was done except the issuance of the grant in 1788 by North Carolina, to perfect the title to the grantee; nor could any- [fol. 621] thing be done, because, in 1789, she ceded her western territory to the United States, and after that time, and after the Act of 1803, ceding to Tennessee the right to issue grants, the State of North Carolina parted with her right to issue grants for lands within the State of Tennessee, upon entries made before the cession. *Burton v. Williams*, 3 Wheat., 529; 11 Peters, 210.

It follows that defendant has no title to the land in controversy by virtue of his claim under the Martin Armstrong grant, issued in 1788. But the plaintiff must recover, if at all, on the strength of his title, and as the defendant is in possession, he has the right to keep that possession if he has shown in any other party "a present, subsisting, legal and bona fide title, not one abandoned by the parties, or barred by the statute of limitations. *Peck v. Carmichel*, 9 Yer., 325; *Dickman v. Collins*, 1 Swan, 516. It is necessary, therefore, to examine the title of the plaintiff, in view of the charge of the Circuit Judge, which was as follows: "The principal question to be determined by the jury is, as to whether the territory upon which the land is situated belonged to the State of North Carolina at the time the Armstrong grant issued. If the jury should find that the State of North Carolina assumed the sovereignty and control of the island at the issuance of the grant, and subsequently Tennessee, under the cession Act, asserted like control over the island, both States assuming the sovereignty and con-

trol of the territory, to the exclusion of all others, States or Nations, for a period of twenty years, the legal presumption would be that the island originally belonged to North Carolina, and at the expiration of from thirty to fifty years, the presumption would be conclusive upon the parties to this [fol. 622] contest. That the jury might look to the facts that North Carolina and Tennessee caused lands to be surveyed and granted by their public officers upon the island; caused court processes by her officers to issue, both in favor of and against the citizens of the island, as circumstances going to show that the States of Tennessee and North Carolina asserted their sovereignty over the territory."

We might content ourselves by resting our decision upon the latter portion of this extract from the charge, in which the Judge assumes that certain facts existed, and then proceeds to instruct the jury that these facts were calculated to establish certain legal results which would be conclusive of the case. It was the province of the jury, and not of the court, to determine whether the facts enumerated by the Judge were proven or not. If proven, the Judge might correctly instruct the jury as to the legal consequences that would follow.

But as this error may not reach the merits of the case, we deem it proper to examine the legal propositions contained in the preceding portion of the charge. The leading idea in the charge is, that if North Carolina and Tennessee exercised sovereignty and control over the island for a period of twenty years, the legal presumption would be that the island originally belonged to North Carolina. To make the legal presumption effectual, the exercise of sovereignty and control for twenty years by both States must be calculated. But the grant issued to Armstrong in 1788, and in 1789 North Carolina ceded the territory to the United States, [fol. 623] and in 1796 the United States admitted the ceded territory into the Union as the State of Tennessee. The only act of control or sovereignty on the part of North Carolina, was the act of issuing a grant one year before she ceded her western territory to the United States. This single act, therefore, was all the evidence of exercise of sovereignty or control by North Carolina to which the charge could have reference. But we have already seen that North Carolina had no title to the island in 1788, but the title was in the Spanish government, and therefore that the grant was an absolute nullity. It is impossible to com-

prehend how an act of sovereignty, that is in itself a violation of the rights of another sovereignty, and therefore void, can be so united with the acts of sovereignty and control by Tennessee, which occurred more than thirty years afterwards, as to relate back to and make good, a title originally null and void. The title to the lands in Tennessee south and west of the Congressional reservation line continued in the United States until 1841, when the State was empowered, as agent, to make titles, and it was not until 1846 that the United States finally relinquished her title to the State. In no view, therefore, could the acts of sovereignty and control by Tennessee, enumerated by the Judge, have any significance or force until after the sovereignty of the territory was vested in her by the act of relinquishment by Congress in 1846. And when Tennessee did exercise acts of sovereignty and control over the island, it was not by virtue of, or under title she derived from North Carolina, nor by any of recognizing or ratifying any title that North Carolina had ever asserted to the island, but all her acts of control and of jurisdiction were in [fol. 624] subordination to the title of the United States until 1846, and after that period by virtue of the title derived from the United States. The whole theory of the charge is therefore erroneous, and is unsustained by the facts in proof. The rule as to presumptions of grants between individuals can have no application to sovereign States or Nations, and, therefore, the title to the land in controversy must rest on other grounds. *Lindsey v. Miller*, 6 Peters, 666; 3 Wash., Real Prop., 141, and cases cited.

We have seen that in 1788, when the grant issued to Armstrong, the land in controversy was west of the Mississippi river and therefore the property of Spain. By the treaty of 1763, between France, Spain and England, the middle of the Mississippi river was made the dividing line between British and the French Territories on this continent. This line was recognized by the treaty of peace with Great Britain in 1783, and by the different treaties since then, the last of which, 1803, resulted in the acquisition of the territory of Louisiana by the United States. It follows that when the United States, in 1803, acquired the title to the French territory west of the Mississippi they became vested with the title to the middle of that river, and therefore with the title to the Cut-off Island, which at that time, and down to 1822 or 1823, was the west side of the river.

The change in the channel of the river in 1822 or 1823 does not alter the status of the title, for the channel which the river abandoned remains, as before, the boundary between the parties on the opposite sides of the river, and the island does not, in consequence of this action of the waters, change its owner. *Missouri v. Kentucky*, 11 Wall., 401.

[fol. 625] It follows that the title to the island is outstanding in the United States, unless by some act of the United States the title has either been conveyed or relinquished, so that it is not now a present, subsisting, bona fide title. As the plaintiff claims under a grant from the State of Tennessee, it is incumbent on him to show that the State could rightfully communicate to him a valid title.

We have seen, that by the treaty of 1803, the United States was vested with the title to the lands West of the Mississippi river, including the island in controversy. By the deed of cession by North Carolina, in 1789, the United States was vested with the title to the lands East of the river. So that by operation of the treaty and the deed of cession, the United States became the owner of the land on both sides of the river.

By the act of Congress of 1836, the State of Arkansas was admitted into the Union, with the following boundaries: Beginning in the middle of the main channel of the Mississippi river, on the parallel of 36 degrees North latitude; running thence West with said parallel of latitude, to the St. Francis river; thence up the middle of the main channel of said river to the parallel of thirty-six degrees and thirty minutes North; from thence West to the Southwest corner of the State of Missouri; and from thence to be bounded on the West to the North bank of Red river, by the lines described in the first articles of the treaty between the United States and the Cherokee nation of Indians, West of the Mississippi, etc.; and to be bounded on the South side of [fol. 626] Red river by the Mexican boundary line, to the North-west corner of the State of Louisiana; thence East with the Louisiana State line to the middle of the main channel of the Mississippi river; thence up the middle of the main channel of the said river to the thirty-sixth degree of North latitude, the point of beginning.

It is observed that in these boundaries no reference is made to the original boundaries of the Louisiana Territory as described in the treaty of 1803, but the United States relinquishes to the State of Arkansas all title to the lands,

making the middle of the main channel of the Mississippi river the Eastern boundary of the State. It has already appeared that for at least ten years before the passage of the act of 1836, the main channel of the Mississippi river was through the cut-off which placed the island on the East side of the river. It is, therefore, manifest that there is no outstanding title to the island in the State of Arkansas, but the title thereto, continued in the United States, as before the act of 1836.

The remaining question is, does the title to the island still continue in the United States, or has it passed by any act of the United States to the State of Tennessee? The United States obtained title to the Western Territory of North Carolina by the cession of 1789, burthened with various terms and conditions, in respect to the satisfaction of existing rights created by entries and military warrants. But as the island in controversy was not acquired from North Carolina by the cession of 1789, her title was not encumbered with any of these terms and conditions. The title was derived from France, and was absolute and unencumbered.

[fol. 627] By an act of Congress of 1806, the line known as the congressional reservation line was defined, and by this act all the lands North and East of this line were ceded to the State of Tennessee, and the lands South and West of this line were to remain at the sole and entire disposition of the United States, the State agreeing to relinquish all right, title and claim thereto.

By an act of Congress of 1818, the State of Tennessee was authorized to issue grants and perfect titles on all special entries and locations of lands, made pursuant to the laws of North Carolina before the 25th of February, 1790, which were good and valid in law, and recognized by the cession act passed in 1789, and which lie South and West of the Congressional reservation line. It is seen that this act has special reference to the territory acquired by the United States from North Carolina, and therefore could in no way affect the title to the island, which then was on the West side of the Mississippi river. Down to this period, the United States had taken no steps for the disposition of the lands South and West of the Congressional reservation line, except as provided in the act of 1818. But in 1841, an act was passed by Congress "that the State of Tennessee be, and is hereby constituted the agent of the Government of

the United States, with full power and authority to sell and dispose of the vacant, unappropriated and refuse lands within the limits of said State, lying South and West of the line commonly called the Congressional reservation line." This agency was coupled with the trust of satisfying all legal and bona fide claims of North Carolina, upon said lands.

[fol. 628] In 1846, Congress passed an act by which "the United States hereby release, and surrender to the State of Tennessee, the right and title of the United States to all lands in the State of Tennessee lying South and West of the Congressional reservation line in said State, which may yet remain unappropriated; with this proviso: that all the said lands the release of which is herein provided for, and the proceeds thereof, shall be and remain subject to all the same claims, incumbrances and liabilities in relation to North Carolina's land warrants, or other claims of North Carolina, as the same could or would be subject to as regards the United States, if the same were not so, as aforesaid released."

By reference to the boundaries of the State of Tennessee, as fixed by the Constitution of 1796, it is clear that the island in controversy, was not within her limits. After describing a dividing line between North Carolina and Tennessee, it is declared "that all the territory, lands and waters lying West of said line, and contained within the chartered limits of North Carolina, or within the boundaries and limits of the State of Tennessee." The middle of the main channel of the Mississippi river being the Western boundary, and the island then being West of the main channel, it follows that it was not within the limits of North Carolina, and therefore, not within the limits of Tennessee.

But by the Constitution of Tennessee, of 1834, a material addition was made to the definition of the boundaries of the State. After describing the boundaries as in the Constitution of 1796, this proviso was added: "that the limits and jurisdictions of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired by compact or agreement with other States, or otherwise, although such land and territory are not included in the boundaries hereinbefore designated."

Under the provisions of this Constitution (and they are the same as that of 1870), the State of Tennessee had juris-

dition over any lands not included within her original boundaries, which she then acquired, or might thereafter acquire by compact or otherwise. If then, the State of Tennessee, in 1834, had jurisdiction over the island in controversy, or if she has since acquired such jurisdiction, it is wholly immaterial that the island may originally have been situated West of the Western boundary.

It is in proof, that as early as 1826, the State of Tennessee, through her various officers, judicial and ministerial, claimed and exercised jurisdiction over the island, but as against the United States in which the title was vested, this claim and exercise of jurisdiction did not and could not vest the title in the State, but this continued exercise of jurisdiction may be legitimately looked to in determining the question whether there is still in the United States a present, valid bona fide subsisting title.

In determining this question, the first act of the United States which deserves attention is the recognition in 1836, by the admission of Arkansas into the Union, of the middle [fol. 630] of the Mississippi river as it then was, as the Eastern boundary of that State. Before that time the Territory of Arkansas and the State of Tennessee had the middle of the main channel of the river as it was in 1803, as a common boundary line. The United States had the legal right to the lands on both sides of the line, and therefore had a right to agree to the change in the line, resulting from the change in the main channel of the river. This fact furnishes persuasive evidence that in recognizing the Eastern boundary of Arkansas as running through the main channel of the river, through the cut-off, the United States also recognized that line as the Western boundary of Tennessee. This inference is strengthened by the fact that in the act of 1841, constituting Tennessee an agent to dispose of the lands South and West of the Congressional reservation line, all the vacant, unappropriated and refuse lands within the State, were designated without making any exception as to the island added to the territory of Tennessee by the avulsion of 1822.

But the final action of Congress in releasing and surrendering the title to the lands South and West of the Congressional reservation is still more conclusive. The act for this purpose was passed in 1836, and in response to a memorial of the General Assembly of Tennessee, adopted in 1845. In that memorial the language was: "Your

memorialists would earnestly, but respectfully urge upon Congress, both the propriety and justice of ceding to the State of Tennessee all the vacant and unappropriated lands South and West of the Congressional reservation line, for the purposes of education," etc. In pursuance of this memorial, the Congress enacted that "the United States hereby release and surrender to the State of Tennessee the [fol. 631] right and title of the United States to all lands in the State of Tennessee, lying South and West of the Congressional reservation line in said State, which may yet remain unappropriated," etc. That the United States intended by this act to surrender to Tennessee her entire title to all vacant and unappropriated lands within her boundaries as they were then recognized, is made certain by the fact that from that time to the present, no claim has been set up by the United States to any public land in the State.

In view of all these facts and circumstances, it can not be said that the United States has a present subsisting, legal and bona fide title to the land in controversy, and that the title formerly vested in the United States has not been abandoned and surrendered to the State of Tennessee. On the contrary, the conclusion is irresistible that by the act of 1846, the United States surrendered and released to the State of Tennessee, all right and title to the land in controversy, and by virtue of the Constitution of 1834, the State has, since that time, possessed and exercised exclusive control and jurisdiction thereof, and that the same was subject to appropriation by entry and grant in pursuant of the laws of the State. As the State of North Carolina never had any claim to or jurisdiction over this land it was never subject, while the property of the United States, to any incumbrances or conditions in respect to military warrants or other North Carolina claims, nor can it be subject to any such incumbrances or conditions since its surrender and release to the State of Tennessee.

For the errors, in the charge of the Circuit Judge indicated, the judgment will be reversed, and a new trial awarded, when the law will be charged as laid down in this opinion.

[fol. 632]

TENNESSEE EXHIBIT 51

J. W. LAXON

v.

STATE

Mr. JUSTICE NEIL delivered the opinion of the Court.

The plaintiff in error was indicted in the circuit court of Dyer county for the murder of Alex Brown, and was convicted of murder in the second degree, and sentenced to a term of ten years' imprisonment in the State penitentiary, from which judgment he has appealed and assigned errors.

The homicide was committed on Island No. 21, which is surrounded by the Mississippi river on its western border, and a slough on the eastern side; the two together making an island.

The only question we shall consider in this opinion is the venue.

It is said that this island is not within the State of Tennessee, and therefore the courts of the State have no jurisdiction of an offense committed there.

This contention is based on the following facts:

In 1763, by a treaty made between England, France and Spain, the middle of the channel of the Mississippi river was made the boundary line between the dominions of these powers; the English possessions lying east of this middle line of the river. At that time what is now Island No. 21, or the land which it embraces, lay entirely west of the river, [fol. 633] and hence within the dominions of France. This was the situation also when North Carolina ceded to the United States the territory subsequently erected into the State of Tennessee. In 1803 the United States by a treaty with France became the owner of the territory west of the river, as it then stood. There are still visible at least two of the old channels, one of them a considerable distance inland. In 1821 or 1822 the river, by an avulsion, cut for itself a new channel west of Island No. 21. In 1836 the State of Arkansas was admitted into the Union, under a geographical description which made its eastern boundary the middle line of the Mississippi river as it then ran. So that it appears that Island No. 21 never belonged to the State of North Carolina, and hence was not within the land ceded by

that State to the United States, and subsequently made the State of Tennessee. It never was the property of Arkansas, because when that State was erected the avulsion had already occurred, and the middle line of the river lay west of this island. However, it became the property of the United States by the treaty of 1803. The precise question as to the ownership of this island is discussed in the case of *Moss v. Gibbs*, in 10 *Heisk.*, 283; it appearing from the evidence in the present case that the island there mentioned as "Cutoff Island" is the same mentioned in this case as Island No. 21. In treating this question the court said:

"Does the title to the island still continue in the United States, or has it passed by any act of the United States to the State of Tennessee? The United States obtained title to the western territory of North Carolina by the cession of [fol. 634] 1789, burthened with various terms and conditions, in respect to the satisfaction of existing rights created by entries and military warrants. But as the island in controversy was not acquired from North Carolina by the cession of 1789, her title was not encumbered with any of these terms and conditions. The title was derived from France, and was absolute and unencumbered.

"By an act of congress of 1806, the line known as the 'congressional reservation line' was defined, and by this act all the lands north and east of this line were ceded to the State of Tennessee, and the lands south and west of this line were to remain at the sole and entire disposition of the United States; the State agreeing to relinquish all right, title, and claim thereto.

"By an act of congress of 1818, the State of Tennessee was authorized to issue grants and perfect title on all special entries and locations of lands, made pursuant to the laws of North Carolina before the 25th of February, 1790, which were good and valid in law, and recognized by the cession act passed in 1789, and which lay south and west of the congressional reservation line. It is seen that this act had special reference to the territory acquired by the United States from North Carolina, and therefore could in no way affect the title to the island, which then was on the west side of the Mississippi river. Down to this period, the United States had taken no steps for the disposition of the lands south and west of the congressional reservation line, except as provided in the act of 1818. But in 1841 an act was

passed by congress 'that the State of Tennessee be and is [fol. 635] hereby constituted the agent of the government of the United States, with full power and authority to sell and dispose of the vacant, unappropriated, and refuse lands within the limits of said State, lying south and west of the line commonly called the congressional reservation line.' (Act Feb. 18, 1841, ch. 7, 5 Stat., p. 412.) This agency was coupled with the trust of satisfying all legal and *bona fide* claims of North Carolina upon said lands.

"In 1846, congress passed an act by which 'the United States hereby release, and surrender to the State of Tennessee, the right and title of the United States to all lands in the State of Tennessee lying south and west of the congressional reservation line in said State, which may yet remain unappropriated, with this proviso: That all the said lands the release of which is herein provided for, and the proceeds thereof, shall be and remain subject to all the same claims, incumbrances and liabilities in relation to North Carolina's land warrants, or other claims of North Carolina, as the same could or would be subject to as regards the United States, if the same were not so as aforesaid released.' (Act Aug. 7, 1846, ch. 92, 9 Stat., 66.)

"By reference to the boundaries of the State of Tennessee, as fixed by the constitution of 1796, it is clear that the island in controversy was not within her limits. After describing a dividing line between North Carolina and Tennessee, it is declared 'that all the territory, lands and waters lying west of said line, and contained within the chartered limits of North Carolina, are within the boundaries and limits of the State of Tennessee.' The middle of the main channel of the Mississippi river being the western boundary, and the island then being west of the main channel, it follows that it was not within the limits of North Carolina, and therefore not within the limits of Tennessee. [fol. 636]

"But by the constitution of Tennessee of 1834 (article 1, section 31), a material addition was made to the definition of the boundaries of the State. After describing the boundaries as in the constitution of 1796, this proviso was added; 'That the limits and jurisdictions of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired by compact or agreement with other States, or otherwise, although such land and territory, are not included in the boundaries hereinbefore designated.'

"Under the provisions of this constitution (and they are

the same as that of 1870), the State of Tennessee had jurisdiction over any lands not included within her original boundaries, which she had then acquired, or might thereafter acquire by compact or otherwise. If, then, the State of Tennessee, in 1834, had jurisdiction over the island in controversy, or if she has since acquired such jurisdiction, it is wholly immaterial that the island may originally have been situated west of the western boundary.

"It is in proof that as early as 1826 the State of Tennessee, through her various officers, judicial and ministerial, claimed and exercised jurisdiction over the island, but as against the United States, in which the title was vested, this claim and exercise of jurisdiction did not and could not vest the title in the State; but this continued exercise of jurisdiction may be legitimately looked to in determining the question whether there is still in the United States a present, valid, *bona fide*, subsisting title.

[fol. 637] "In determining this question, the first act of the United States which deserves attention is the recognition in 1836, by the admission of Arkansas into the Union, of the middle of the Mississippi river, as it then was, as the eastern boundary of that State. Before that time the territory of Arkansas and the State of Tennessee had the middle of the main channel of the river as it was in 1803 as a common boundary line. The United States had the legal right to the lands on both sides of the line, and therefore had a right to agree to the change in the line, resulting from the change in the main channel of the river. This fact furnishes persuasive evidence that in recognizing the eastern boundary of Arkansas as running through the main channel of the river, through the cutoff, the United States also recognized that line as the western boundary of Tennessee. This inference is strengthened by the fact that in the act of 1841, constituting Tennessee an agent to dispose of the lands south and west of the congressional reservation line, all the vacant, unappropriated, and refuse lands within the State were designated without making any exception as to the island added to the territory of Tennessee by the avulsion of 1822.

"But the final action of congress in releasing and surrendering the title to the lands south and west of the congressional reservation is still more conclusive. The act for this purpose was passed in 1836, and in response to a memorial of the general assembly of Tennessee, adopted in

1845. In that memorial the language was: 'Your memorialists would earnestly, but respectfully, urge upon congress both the propriety and justice of ceding to the State of Tennessee all the vacant and unappropriated lands south and west of the congressional reservation line, for the [fol. 638] purposes of education,' etc. In pursuance of this memorial, the congress enacted that 'the United States hereby release and surrender to the State of Tennessee, the right and title of the United States to all lands in the State of Tennessee, lying south and west of the congressional reservation line in said State, which may yet remain unappropriated, etc. That the United States intended by this act to surrender to Tennessee her entire title to all vacant and unappropriated lands within her boundaries as they were then recognized is made certain by the fact that from that time to the present, no claim has been set up by the United States to any public land in the State.

"In view of all these facts and circumstances, it can not be said that the United States has a present, subsisting, legal and *bona fide* title to the land in controversy, and that the title formerly vested in the United States has not been abandoned and surrendered to the State of Tennessee. On the contrary, the conclusion is irresistible that by the act of 1846, the United States surrendered and released to the State of Tennessee all right and title to the land in controversy, and by virtue of the constitution of 1834 the State has, since that time, possessed and exercised exclusive control and jurisdiction thereof, and that the same was subject to appropriation by entry and grant in pursuance of the laws of the State." 10 Heisk., 294-296.

It is said, however, that this case was overruled by the later case of State v. Pulp Co., 119 Tenn., 47, 104 S. W., 437. We are at a loss, however, to see how there is any conflict between these two cases. In the case last cited the court [fol. 639] was not dealing with the principles involved in Moss v. Gibbs, further than the one proposition that the middle of the river is the line between adjoining States, and the two cases are at one upon that subject. In State v. Pulp Co., the chief proposition in controversy was one advanced by the Pulp Company, to the effect that the boundary line was the middle of the channel of navigation. In that case the court held, as it also held in Moss v. Gibbs, that when a river is the dividing line between two States an avulsion does not change the line, and further held that what

was the western line of Tennessee before the avulsion of 1875, which affected the particular line in controversy in that case, still remained the line, and that the State of Tennessee had the right then to grant up to the middle line the lands lying in the old bed of the river, which it had deserted by the avulsion last named. In *Moss v. Gibbs* the court held likewise that the avulsion of 1822 did not change the line previously existing between Tennessee and the territory of Arkansas, but that subsequent acts of congress, and long acquiescence in the use by Tennessee of the property as a part of its domain, had resulted in the necessary conclusion that the United States no longer had or held ownership of the island in question. The doctrine of acquiescence announced in *Moss v. Gibbs* is fully recognized in the later case of *State v. Pulp Co.*

It is said, however, that the lines of Dyer County, as originally laid off in 1823, did not embrace this particular island. This is true; nevertheless, ever since that time Dyer County has assumed jurisdiction over this land, and persons [fol. 640] living there have paid taxes to Dyer county and voted in that county, and this has never been questioned by the State, and no other county has any claim to it. This being true, it must be held that the State has acquiesced in the claim of Dyer County to this land, and it must be treated as a part of the county. If the State consents, the prisoner cannot object.

The other questions made have been fully considered by the court, but are without merit, and are overruled.

The result is the judgment must be affirmed.

126 Tenn., 302-312.

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4-207

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
1848 WASHINGTON August 5, 1938.

I hereby certify that the annexed photostat copy
of letter dated January 19, 1848, to the Commissioner of the
General Land Office is a

true and literal exemplification of the records on file in
this office and in my custody.

IN TESTIMONY WHEREOF I have hereunto subscribed
my name and caused the seal of
this office to be affixed, at
the city of Washington, on the
day and year above written.

John W. Jones

Commissioner of the General Land Office.

641

177

✓ 29.06.3
W. Poland saw 1000 ft. of
Little Rock & Laramie
Mississippi with them.

Argento thinning & thinning
out the old yellow pine
Mississippi with them.

✓ 29.06.3
W. Poland saw 1000 ft. of
Little Rock & Laramie
Mississippi with them.

✓ 29.06.3
W. Poland saw 1000 ft. of
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Mississippi with them.

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W. Poland saw 1000 ft. of
Little Rock & Laramie
Mississippi with them.

Surveyor's Office
State Rock Island
Aug 15 1888

Dear

I have been called upon to have
an island in the Mississippi River surveyed and
the lands brought into market. The island is
estimated to contain fifteen thousand acres of good
land and others which are subject to inundation
all of which is valuable either for agricultural
purposes, or for wood.

The island was formed in the year 1822 by the river
forcing itself through a peninsula, which is now called
Richmond's Cut-off and is considered to be the channel
of the stream. My information is, that the
State of Tennessee does not claim it, and it is in
accordance with the citizens of the vicinity to be a portion
of the public domain. If the surveys were taken up
to it, it would fall in Section 14 E.
An expression of opinion on this subject is
requested

Very Respectfully
Yours etc send

Richard M. Young Esq. 3
Surveyor of the Public Lands
Court of the Standard Office
Washington City

643

4-207
UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON August 5, 1938.

4-207
I hereby certify that the annexed photostat copy
of letter dated March 2, 1848, to the Surveyor General at
Little Rock, Arkansas, is a

true and literal exemplification of the records on file in
this office and in my custody. —

IN TESTIMONY WHEREOF I have hereunto subscribed
my name and caused the seal of
this office to be affixed, at
the city of Washington, on the
day and year above written.

John W. Grinnell

Commissioner of the General Land Office.

644

W. B. Yeat
Dear Sir

White Oak

Sir.

Your letter of the 19th January last has been received, in which the opinion of this Office is requested on the survey of an Island containing about fifteen thousand acres of land, which was granted by the Mississippi River, passing a passage through a peninsula, the stream of the old River being known as "Red River" cut off. The answer to the state, that of satisfactory evidence can be obtained, that the original (main) channel of the Mississippi River, was on the East side of the Island, and that this Island was formed as my opinion by your in 1822, by the River forcing its way through a peninsula, I have no objection to your giving the survey of it, more especially if it is not claimed by the State of Tennessee, as suggested by you.

Very respectfully
Your Obt Servt
Richard M. Young
Commissioner

645

General Survey Office
Memphis 1849

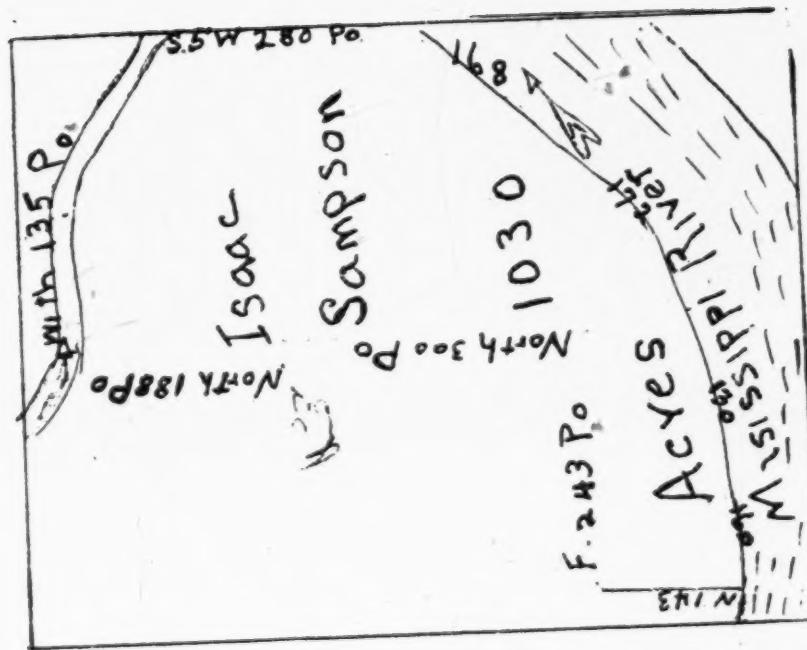
My dear Sir
Your letter of the 19th January last has been received, in which the opinion of this Office is requested on the survey of an Island containing about fifteen thousand acres of land, which was granted by the Mississippi River, passing a passage through a peninsula, the stream of the old River being known as "Red River" cut off. The answer to the state, that of satisfactory evidence can be obtained, that the original (main) channel of the Mississippi River, was on the East side of the Island, and that this Island was formed as my opinion by your in 1822, by the River forcing its way through a peninsula, I have no objection to your giving the survey of it, more especially if it is not claimed by the State of Tennessee, as suggested by you.

Very respectfully

Your Obt Servt
Richard M. Young
Commissioner

Exhibit No. 1 (Brayton Cross-examination)

Survey Book 2. PAGE 157



646-647

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.648] EXHIBIT No. 2 (BRAYTON CROSS-EXAMINATION)

Survey Book 2, Page 157

scale 200 poles per inch.

No. 323 taken from old survey record No. 2, page 74,
State of Tennessee—Dyer County.

By virtue of entry No. 607 dated September 2, 1851 under
provisions of the laws then in force relative to the entry
of vacant lands in Tennessee I have surveyed for Isaac
Sampson one thousand and thirty acres of land in the
seventh district of Dyer County Tennessee in the thirteenth
Surveyors district elevenths and second. Beginning at the
Northeast corner of Williams and Hills 1428½ acres grant
(formerly known as James Maney's entry) running thence
North with his East boundary 188 poles to the center of the
channel of Obion river; thence down the same as it meanders
335 poles to the West boundary of M. R. Strong's
10 acre grant No. 96; thence with said line South 5° West
172 poles to the edge of the water at low water mark of
the old channel of the Mississippi River; thence up the
channel as it meanders South 45° West 168 poles; South 55°
West 172 poles South 72° West 130 poles South 86° West
172 poles in all 630 poles to the Southeast corner of C. Free-
ll's 176½ acre-; thence North with his line 143 poles to
the Southwest corner of William B. Jones 456 acres; thence
North with his line 243 poles to his Southeast corner; thence
North with his boundary 300 poles to his Northeast corner;
thence with his North line 27 poles to the beginning—Sur-
veyed March 10, 1856.

D. F. Parker, Surveyor, per F. G. Sampson, D. S.,
Dyer County.

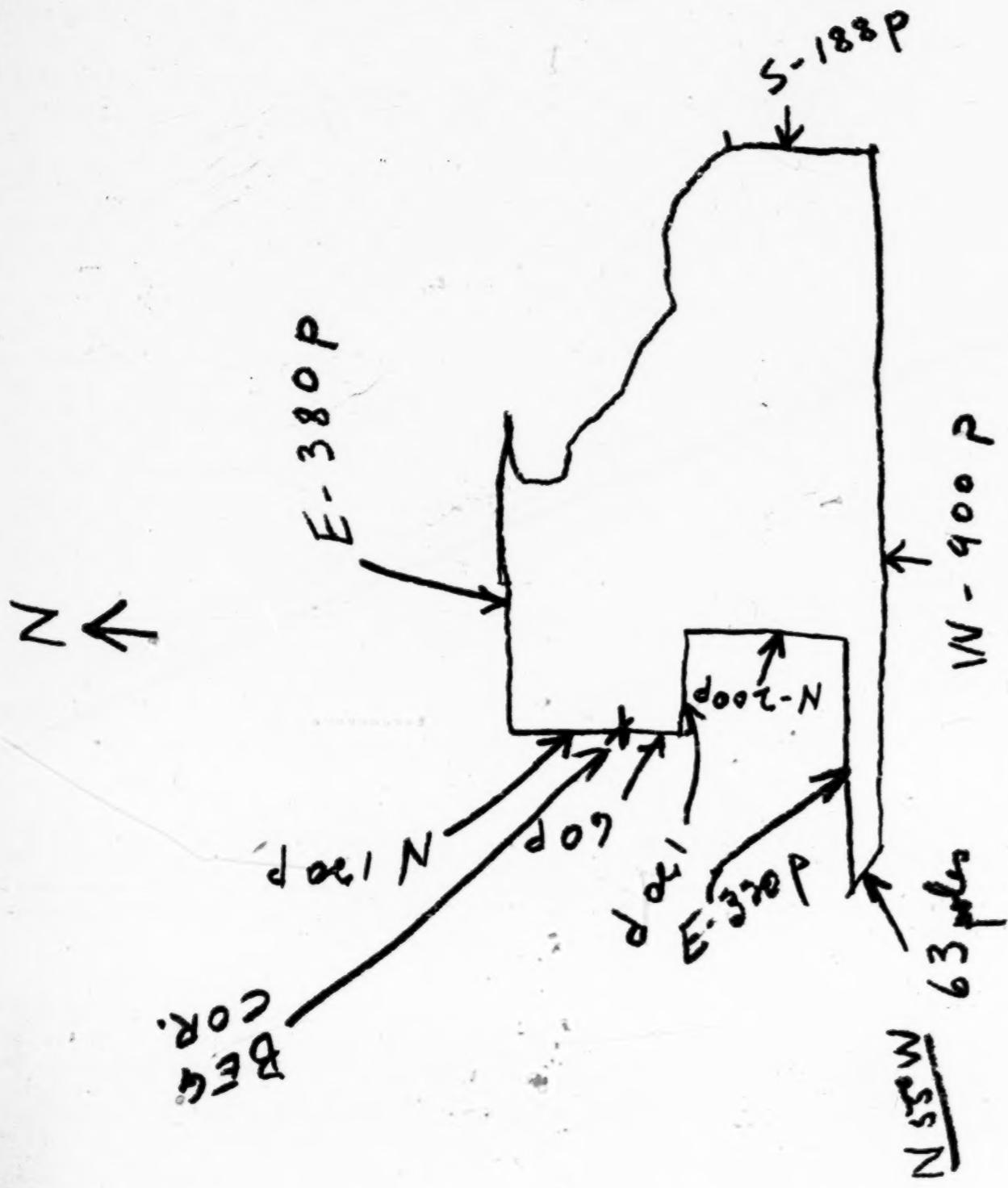
Chas. H. Earl & A. D. Brown, S. C. C., A. D. Brown
Surveyor.

Returned March 12, 1856.

Recorded March 12, 1856.

(Here follows 1 photolithograph, side folio 649.)

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SURVEY Book 1,
P-222
Ex. 3 to L. O. BRAYTON -
649
661

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[fol. 649-a]

OFFER IN EVIDENCE

STATE OF ARKANSAS,
County of Pulaski:

I, Otis Page, Commissioner of State Lands of the State of Arkansas, hereby certify that the records of my office show that on the 10th day of October 1935, application was made and filed by one P. K. Kissel to purchase under the Act of March 21, 1917, No. 282, known as the "Island Act", a certain island formation in the Mississippi River, locally known as "Blue Grass Tow Head"; that appointment of surveyor to survey said island was held in abeyance because of the fact that this office was advised and informed that there was a controversy between the states of Arkansas and Tennessee as to whether or not this island, or land, was located within the boundaries of Arkansas or Tennessee; that to date no further action on this application has been taken by this office.

Given under my Hand and Seal of Office, as such Commissioner of State Lands of the State of Arkansas, on this 13th day of June 1938.

Otis Page, Commissioner. (Seal.)

[fol. 650] IN SUPREME COURT OF THE UNITED STATES

DESIGNATION BY THE PLAINTIFF OF PARTS OF THE RECORD TO
BE PRINTED—Filed Nov. 18, 1939

May It Please the Court:

Comes now the State of Arkansas, Plaintiff, in the above styled cause and designates the following parts of the record to be printed for use on the hearing of the exceptions to the report of the Master:

I

The following excerpts from the deposition of Dr. L. C. Glenn, appearing in the report of the evidence taken on behalf of the Defendant, State of Tennessee:

(1). Pages 67 to and ending with the last answer on page 71.

(2). The following question and answer appearing on page 87,

“Q. Doctor will you file that map as Tenn. Ex. No. 25?
A. I do so.”

[fol. 651] (3). The following question and answer appearing on page 132,

“Q. Please locate and mark on Ex. 25 the old mouth of Obion River by appropriate letter, and mark it in the margin of the map.

A. The old mouth of the Obion River on Ex. 25, is just south of the letter “N”, written by me in blue.”

(4). Beginning with the second question on page 153 and continuing to, but excluding, the first question on page 156.

II

The following excerpts from the deposition of O. W. Gauss, appearing in the report of the evidence in chief taken on behalf of the Plaintiff, State of Arkansas:

(1). Pages 47 to and including the fifth answer on page 50, which reads,

“A. Yes, I am acquainted with that area.”

(2). Beginning with the last question on page 51 and continuing to and including the fourth answer on page 53, which reads,

“A. It was revised up to 1935.”

(3). Beginning with the last question on page 59 and continuing to and including the third answer on page 60, which reads,

“A. A small portion of the area designated as “Blue-grass Towhead” lies within the original meander line of Arkansas as indicated on the survey of 1837.”

(4). Beginning with the first question on page 69 and ending with the answer to question No. 3 on the same page, which reads,

“A. Yes, sir.”

III

The following excerpts from the deposition of O. W. Gauss appearing in the report of evidence in rebuttal taken on behalf of the Plaintiff, State of Arkansas:

[fol. 652] (1). That portion of page 5 ending with the second answer, which reads,

"A. I did. Yes, sir."

(2). Beginning on page 43 with the third question, the first four words of which are, "the old bank of", and continuing to but not including the first question on page 50.

(3). The first two questions and answers on page 61.

(4). Beginning with the third question on page 74 and continuing to the middle of page 80, ending at the "point where Mr. Buck took the witness".

IV

Pages 76 and 77 of the testimony in chief of the State of Arkansas, Ap-aintiff, which offer in evidence the Certificate of Otis Page.

V

Tennessee Exhibit No. 25, offered in evidence on page 87 of Tennessee's testimony.

VI

Arkansas Exhibit No. 7 offered in evidence on page 51 of Arkansas' testimony in chief.

VII

Arkansas Rebuttal-Exhibit No. 2 offered on page 48 of Arkansas' Rebuttal testimony.

VIII

Exhibits 1, 2 and 3 to the cross-examination of Mr. L. O. Brayton witness for the State of Tennessee, introduced on page 62 of Tennessee's testimony described as follows:

[fols. 653-654] (1). Exhibit No. 1 being a photostat copy of the "Isaac Sampson 1030 acre grant".

(2). Exhibit No. 2 being a copy of the description of said "Isaac Sampson 1030 acre grant" as surveyed.

(3). Exhibit No. 3 being a tracing of the "James Manney 416 $\frac{2}{3}$ acre grant".

IX

Certificate of Otis Page, Commissioner of State Lands of Arkansas, dated June 13, 1938, offered in evidence but unmarked, signed duplicate herewith attached, marked Exhibit A and made a part hereof.

Respectfully submitted,

State of Arkansas, Plaintiff, Jack Holt, Attorney General for the State of Arkansas, by D. Fred Taylor, Jr., Special Counsel.

Due service of the above designation accepted this 17 day of November, 1939.

State of Tennessee, by Nat Tipton, Assistant Attorney General.

[fol. 655] IN SUPREME COURT OF THE UNITED STATES
DESIGNATION BY THE DEFENDANT OF PARTS OF THE RECORD
TO BE PRINTED—Filed November 18, 1939

May it please the Court:

Comes now the State of Tennessee, defendant, in the above styled cause and designates the following parts of the record to be printed for use on the hearing of the exceptions to the report of the Master:

[fol. 656] 1. Testimony of S. C. Michell (Tennessee Testimony pp. 2-10 inclusive).
 2. Testimony of E. M. Huffman (Tennessee Testimony pp. 10-18 inclusive).
 3. Testimony of G. L. Scott (Tennessee Testimony pp. 18-24 inclusive).
 4. Testimony of C. C. Johnson (Tennessee Testimony pp. 24-26 inclusive, pp. 52-59 inclusive).
 5. Testimony of L. O. Brayton (Tennessee Testimony pp. 26-52 inclusive, pp. 60-64 inclusive).
 6. Testimony of Byron Morse (Tennessee Testimony pp. 64-67 inclusive).
 7. Testimony of Franklin W. Latta (Tennessee Testimony, pp. 259-282 inclusive, including stipulation embodied on page 282 Tennessee Testimony).

The State of Tennessee further designates the following exhibits introduced by it to be included in the record:

1. Tennessee Exhibit No. 1 (Introduced Tennessee Testimony page 7).
2. Tennessee Exhibit No. 2 (Introduced page 28 Tennessee Testimony).
3. Tennessee Exhibit No. 3. (Introduced page 28 Tennessee Testimony).
- [fol. 657] 4. Tennessee Exhibit No. 4 (Introduced pages 28-29 Tennessee Testimony).
5. Tennessee Exhibit No. 5 (Introduced page 29 Tennessee Testimony).
6. Tennessee Exhibit No. 6 (Introduced pages 29-30 Tennessee Testimony).
7. Tennessee Exhibit No. 7 (Introduced page 32 Tennessee Testimony).
8. Tennessee Exhibit No. 8 (Introduced page 34 Tennessee Testimony).
9. Tennessee Exhibit No. 9 (Introduced pages 34-35 Tennessee Testimony).
10. Tennessee Exhibit No. 10 (Introduced page 35 Tennessee Testimony).
11. Tennessee Exhibit No. 11 (Introduced pages 35-36 Tennessee Testimony).
12. Tennessee Exhibit No. 12 (Introduced page 36 Tennessee Testimony).
13. Tennessee Exhibit No. 13 (Introduced pages 36-37 Tennessee Testimony).
14. Tennessee Exhibit No. 14 (Introduced pages 38-39 Tennessee Testimony).
15. Tennessee Exhibit No. 40 (Introduced page 261 Tennessee Testimony).
- [fol. 658] 16. Tennessee Exhibit No. 41 (Introduced page 262 Tennessee Testimony).
17. Tennessee Exhibit No. 42 (Introduced pages 263-64 Tennessee Testimony).
18. Tennessee Exhibit No. 43 (Introduced page 264 Tennessee Testimony).
19. Tennessee Exhibit No. 44 (Introduced page 266 Tennessee Testimony).
20. Tennessee Exhibit No. 45 (Introduced page 266 Tennessee Testimony).

21. Tennessee Exhibit No. 46 (Introduced page 257 Tennessee Testimony).
22. Tennessee Exhibit No. 47 (Introduced page 270 Tennessee Testimony).
23. Tennessee Exhibit Nos. 47 and 48 (Introduced pages 273-74 Tennessee Testimony).
24. Tennessee Exhibit No. 49 (Introduced page 275 Tennessee Testimony).
25. Tennessee Exhibit No. 50 (Introduced page 280 Tennessee Testimony).
26. Tennessee Exhibit No. 51 (Introduced page 281 Tennessee Testimony).
27. Tennessee Exhibits Nos. 52 and 53 (Introduced page 281 Tennessee Testimony).

Respectfully submitted,

State of Tennessee, by Nat Tipton, Assistant Attorney General.

[fol. 659] Due service of the above designation accepted this November 15th, 1939.

State of Arkansas, by D. Fred Taylor, Jr., Special Counsel.

[fol. 660] IN SUPREME COURT OF THE UNITED STATES

STIPULATION—Filed November 18, 1939

It is hereby agreed and stipulated by the undersigned Counsel of record for the respective parties hereto that the attached designations of excerpts of the record submitted by each party to be printed shall constitute the record evidence for use on the hearing of the exceptions to the Master's Report in said cause.

Dated this 17 day of November, 1939.

The State of Arkansas, Plaintiff, Jack Holt, Attorney General, by D. Fred Taylor, Jr., Special Counsel.
The State of Tennessee, Defendant, by Nat Tipton, Assistant Attorney General.

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